

Antisemitism, Jewish Identity, and Freedom of Expression on Campus

A GUIDE AND RESOURCE BOOK
FOR FACULTY & UNIVERSITY LEADERS



Academic
Engagement
NETWORK

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ABOUT AEN

Founded in 2015, the Academic Engagement Network (AEN) is a national organization composed of over 800 faculty, administrators, and staff on more than 260 university and college campuses across the United States. AEN works to oppose efforts to delegitimize Israel on campus; supports robust education, research, and discourse about Israel in the academy; promotes academic freedom and freedom of expression in the university community; and seeks to counter antisemitism when it occurs on campus.

AEN aims to foster more constructive ways of addressing the Israeli-Palestinian and Israeli-Arab conflicts. It offers a diverse and multidisciplinary set of resources, scholarship, and programming in order to better understand modern-day Israel. In place of academic boycotts and one-sided sloganeering and propaganda that merely reinforce simplistic binaries and impede a full understanding of the Middle East region, AEN advocates open inquiry that acknowledges complexity and nuance. In place of hostile tactics that galvanize deep intergroup suspicions on campus and in the academy, AEN encourages a civil, tolerant, and respectful exchange of ideas. We insist that the heckler's veto has no place on campus—there is no free speech right that permits blocking the free expression and academic freedom of others. AEN is committed to addressing the antisemitic tropes and canards that are ubiquitous features of virulently anti-Israel narratives on campus while upholding free speech and academic freedom for all.

AEN members serve as resources for a reasoned discussion about Israel on American campuses and in the U.S. academy. They host educational programs on their campuses; organize against the academic boycott of Israel in professional associations and on their campuses; participate and speak out in various campus and community forums; write and publish in scholarly and public-facing outlets; and mentor students in their efforts to advance dialogue and serious scholarship about Israel and the Middle East on their campuses. AEN advises campus presidents and chancellors and offers guidance and training programs to other administrators about campus antisemitism and related issues. AEN also encourages universities and colleges to forge and enhance academic ties between the United States and Israel via student and faculty exchanges and research collaborations.

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Credit for this *Guide and Resource Book* goes to the entire AEN Leadership Team. While Miriam F. Elman, Executive Director of the Academic Engagement Network, was responsible for shaping the content and contributed much of the writing, it represents the combined efforts and insights of the dedicated professionals who currently comprise AEN's Leadership Team. In order to acknowledge the contributions of each staff member, the essays that follow note primary authorship.

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PREFACE

The campus climate for Jewish and pro-Israel students has changed a great deal since the Academic Engagement Network produced its first set of *Guide and Resource Books* for university leaders and faculty, in 2016 and 2017, respectively. Virulently anti-Israel Boycott, Divestment, and Sanctions (BDS) campaigns and resolutions plus the disruption of Israeli speakers and Israel-themed events—topics covered at length in our prior *Guides*—are still fixtures of the campus scene. However, in recent years, a more pernicious and hostile anti-Israel activism has also emerged. On a number of campuses, Jewish and pro-Israel students face an increasingly challenging learning environment, with incidents of antisemitic hate crimes on campus rising at worrisome rates.

Jewish students who wish to express their Zionist identities and attachment to Israel are now being demonized and demoralized. On some campuses, they are even ostracized from campus life. Especially troubling is that vehemently hateful and hurtful anti-Israel rhetoric is resulting in harassment and, on some campuses, even giving way to discriminatory action. Anti-Israel expression is now targeting Jewish and Zionist students and their identities even more so than Israel itself, isolating these students from their peers, student clubs and organizations, and the causes that they care deeply about. While a considerable amount of the negativity that Jewish and pro-Israel students experience stems from peer-on-peer bullying and intimidation, faculty are also involved in encouraging and contributing to this deteriorating campus climate.

In order to effectively address this new set of realities on campus, in 2019, AEN successfully pivoted toward a reallocation of resources for boosting the wherewithal of its members to serve as change agents on their campuses. A number of new initiatives and programs were developed as a result (for more information, see our website, <https://academicengagement.org/>). In addition, in light of the disturbing trend of rising antisemitic incidents at institutions of higher education and the growing number of personal attacks on Jewish students for their Zionist identities and attachment to Israel, we saw the need to both update and revise our existing *Guide and Resource Books*. In order to share information and insights with our key constituencies—faculty and university leaders—as well as to encourage and facilitate communication between faculty and administrators in the spirit of shared campus governance, the decision was made to produce a single Guide and Resource Book in 2021.

The essays and appendices that follow build on AEN's prior *Guide and Resource Books*, which contain a wealth of information about the anti-Israel movement on campus up through AEN's founding in 2015. AEN Executive Director Emeritus Kenneth Waltzer's exemplary leadership of AEN during its early years is reflected in his stewardship of these valuable earlier Guides. Much of the material in them continues to be relevant. Accordingly, a number of sections from AEN's prior *Guides* have been reproduced here and are so noted. Key sections that appeared in the 2016 and 2017 *Guidebooks*—including essays covering the origins of BDS, the negative impact of the anti-Israel movement on academic exchange, and its assault on campus free speech

and academic freedom—feature in this *Guide* as well, and have been updated to reflect new incidents and developments. New research and published material are included in the citations. Campus dynamics and developments that were only just emerging back in 2016 to 2017 are more centrally addressed. This includes the role that intersectionality and social justice play on campus and their impact on Jewish and pro-Israel students; the ways that equity, diversity, and inclusion officials and staffers can better meet the needs and concerns of the Jewish student population; and how Jewish students are increasingly using a diverse set of remedies when university administrations exhibit indifference or fail to address antisemitic harassment and discrimination.

Back in 2016 to 2017, when AEN produced its first set of *Guide and Resource Books* for faculty and university leaders, the organization comprised 460 members on some 180 universities and colleges across the United States. Today, as the 2022 edition of our new *Guide and Resource Book* goes to press, AEN is proud to have nearly doubled in size. Some 800 faculty, administrators, and staff have joined the network, offering leadership and support to students on over 265 campuses across the country.

Many of AEN's initiatives (e.g., speakers bureaus, micro-grants program, pamphlet series, and regional short courses), which were still in their infancy when our prior *Guide and Resource Books* were produced, are now popular signature AEN programs providing members with the resources and information they need to advance AEN's goals on their respective campuses and in their region. A number of new AEN initiatives have also been launched in recent years. These include a research paper and webinar series, a set of organized sections and interest groups to facilitate networking, and an ambitious project to train diversity officials and staff on U.S. campuses about antisemitism and needs and concerns of Jewish and pro-Israel students.

While we continue to be responsive to new campus realities and launch new programs for our membership, AEN has retained its original purpose and mission: to be first and foremost an organization that represents and promotes the voice of faculty. Our faculty members are at the core of our network. The network offers an opportunity for faculty to share best practices at AEN's national conferences, campus and regional convenings, online programming, and more. Members work to ensure that their campus community is literate about modern-day Israel and contemporary developments in the Middle East; aware of how and when legitimate criticism of Israel can cross the line into a dangerous form of antisemitism; and knowledgeable of the bedrock principles of the academy: academic freedom and campus free expression. Through their engagement on their own campuses—and as a result of their combined efforts at the local, regional, and national level—AEN members continue to make a difference and are having an important impact on the campus climate for Jewish, Zionist, and all students. So that they can be most effective, AEN's Leadership Team continues to provide customized advice and support in responding to specific campus incidents.

AEN is pleased to be able to offer this *Guide and Resource Book* to our faculty members and to university presidents, chancellors, and other administrators. The *Guide* includes ideas, insights, and representative examples based on real experiences for deciding how and with what kinds of strategies and tactics to respond to antisemitism, calls for academic boycotts, and the denunciation of Jewish identity. Like our prior *Guides*, it seeks to facilitate constructive responses to campus conflicts and to encourage proactive work for long-term

“While we continue to be responsive to new campus realities and launch new programs for our membership, AEN has retained its original purpose and mission: to be first and foremost an organization that represents and promotes the voice of faculty.”

educational efforts, academic exchanges, training, and the development of policies and standards. University leaders are often bombarded with offers of assistance in a crisis; at that point, it can be difficult for them to sort out in a timely manner what is helpful and what is not. The *Guide* is designed to provide a succinct introduction to these complex issues and to acquaint administrators with examples of statements and policies by other university leaders confronting similar circumstances. While every campus has its own unique culture and traditions, this *Guide* may be a useful starting point.

The *Guide* offers a brief history of the anti-Israel movement on campus and the numerous ways—via academic boycott and divestment; impacts on the curriculum, scholarship, and co-curriculum; attacks on study abroad and exchange programs, and more—that BDS has damaged the campus climate by undermining the key values and principles of higher education, including academic freedom and open intellectual inquiry. BDS represents a political orthodoxy that runs roughshod over a respect for viewpoint diversity and intellectual pluralism and heterodoxy. A paradigm whose goal of justice is defined as erasing an alleged irredeemable state and ideology—Israel and Zionism—has resulted in a crude and coarsened campus rhetoric and an impoverished understanding about not only the Jewish State but about Jews and Judaism as well. This *Guide* identifies and defines the problem and suggests an array of solutions for rectifying it and for improving the campus climate for Jewish, Zionist, and all students.

AEN's new *Guide and Resource Book for Faculty and University Leaders* was conceptualized, written, and produced during a tumultuous and challenging period for academia, the United States, and the world. The devastating global coronavirus pandemic has made 2020 to 2021 a frightening and daunting time. As the country tried to rebound from the pandemic, protests and riots swept the United States, bringing racial tensions to the fore in the wake of the brutal murder of George Floyd. A polarizing presidential election gave way to false conspiracies of election fraud and inspired a rampage on the U.S. Capitol—a violent insurrection perpetrated by a mélange of far-right white nationalists, anti-government militia groups, and Neo-Nazis and Holocaust deniers. That so many racist and antisemitic hate symbols and signs were proudly displayed by the Capitol mob underscores the threat that white supremacy continues to pose to Jews, Blacks, and other vulnerable American minorities.

In recent years, there has been an uptick in right-wing extremists targeting campuses, creating learning environments that are unsafe for Jewish students. Yet, as this *Guide and Resource Book* makes clear, we must also be concerned that antisemitism is becoming mainstreamed and normalized on campus as consistent with social justice and human rights. It is our hope that this *Guide* will be a timely and useful resource for better understanding the campus climate of fear and disrespect that Jewish students increasingly face—and the necessary steps that can be taken to provide them with better support and protection.



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PART I.

INTRODUCTIONS

CHAPTER 1. INTRODUCTION

MIRIAM F. ELMAN

Twenty years ago, a platform to boycott Israeli academia was endorsed in Durban, South Africa at the *United Nations World Conference against Racism, Racial Discrimination, Xenophobia, and Related Intolerance*. The total isolation of Israel by way of punishing economic, cultural, and academic boycotts, divestment, and sanctions (BDS) was heralded as a new global initiative modeled on the campaign to overthrow apartheid in South Africa. Along with its virulent anti-Israel themes, the Durban convening was replete with vile antisemitic rhetoric and materials. The hostility was so palpable that some Jewish participants hid their name tags and wore caps to hide their yarmulkes, Jewish-themed sessions were cancelled as a precaution, and the U.S. delegation ultimately pulled out of the conference in disgust.

Calls for the academic boycott of Israel, often accompanied by the same kind of intolerable anti-Jewish animus that permeated the roll-out of BDS at Durban, would soon result in a number of professional academic associations and unions in Canada and the United Kingdom advancing BDS, such as the British University and College Union pro-boycott vote in 2007. But the anti-Israel boycott movement has had only sporadic appeal in the United States. Indeed, by 2015, hundreds of university leaders and multiple professional associations, including the Association of American Universities (AAU) and the American Association of University Professors (AAUP), had released statements opposing the boycott of Israeli academic institutions, compiling a strong record of speaking out publicly against BDS.

That said, by 2015, when the *Academic Engagement Network* was founded, Jewish students and faculty on a number of U.S. campuses were pointing to a coarsening of the discourse regarding Israel and the Arab-Israeli conflict as a result of steady BDS inroads. At the time, most of America's 5,000+ universities and colleges were not awash in BDS, much less in campus antisemitism. However, on some campuses, including some of the country's most prestigious and those with high Jewish student enrollments, there were reports of an alarming degree of intimidation and harassment of Jewish students and supporters of Israel's right to exist. On other campuses, faculty were raising concerns about the ways in which academic integrity and standards were being undermined. Disturbing incidents in which virulently anti-Israel professors were alleged to be discriminating against Jewish students because of their heritage and presumed attachment to Israel were also beginning to surface.

Today, the anti-Israel movement on campus remains pernicious, but it is not a universal phenomenon. Many universities and colleges have continued to respond critically to BDS and especially to academic boycotts against Israel. Some university leaders have also committed to addressing antisemitism. In 2016, for example,

the University of California Board of Regents acknowledged that contemporary antisemitism could manifest as opposition to Zionism and assertions of prejudice and intolerance toward Jewish culture and identity. Last year, in a joint statement with Jewish and civil rights organizations, the University of Illinois-Urbana Champaign recognized that Zionism is an integral part of the ethnic heritage of many Jewish students, who have a right to openly express this identity and to participate in campus life free from discrimination and harassment. These positive examples aside, it remains the case on many campuses that university officials are reluctant to address antisemitic forms of anti-Zionism either because they fear a backlash or, as is more often the case, they have difficulty recognizing anti-Jewish bigotry when it's couched as anti-Zionism.

As we highlight in this *Guide and Resource Book*, BDS has contributed to a toxic campus climate at a number of universities and colleges. To be sure, opposition to free speech; to civil, reasoned, and respectful debate; and to heterodoxy and open intellectual exchange on American campuses has numerous sources. But there can be no doubt that the BDS movement has also degraded free expression and civil discourse. BDS activists—including students, faculty, and, in some cases, university and college staff—have shut down discussion, demonized and delegitimized Israel and ostracized its campus supporters, and politicized university courses and co-curricular events.

Of course, BDS proponents—whether faculty, students, or guest speakers invited to campus—have the right to present their positions and viewpoints, both inside and outside of the classroom. But the BDS movement openly seeks to deny this same right to others. In particular, “anti-normalization”—the view that any educational activities or exchanges that “normalize” relations between Israelis and Palestinians must be rejected because they treat both peoples as having legitimate grievances and as equally deserving of justice—has provided a justification for the silencing and shunning of pro-Israel students and faculty and to the canceling of campus programs, events, and even courses considered too sympathetic to Israel.

As this *Guide and Resource Book* documents, in the two decades since the academic and cultural boycott of Israel was launched in Durban, censorship on the U.S. campus and in the academy by those opposed to Israel has taken many forms. Methods employed include repeated disruptions of speakers and meetings, attempts to impose academic boycotts in professional associations, and a shunning of Israeli academics. In many instances, however, the students and faculty colleagues of pro-BDS advocates are being disadvantaged, not only Israeli foreign nationals. For example, as we note in one chapter in the *Guide*, efforts to shutter study abroad and exchange programs with Israeli academic institutions deprive U.S.-based students of educational opportunities and U.S.-based faculty of their academic freedom.

Attempts to implement academic boycotts—whether formally or informally—and disruptions of Israeli speakers and Israel-themed events continue to be a cause for concern, given how antithetical they are to academic freedom and to the university's central mission to serve as a forum for open intellectual exchange. But even more disturbing is an aggressive form of anti-Israel activism that is undermining the university's mission to provide a welcoming and inclusive learning environment for all. On a number of campuses where there are active BDS campaigns, Jewish students are being marginalized, demoralized, harassed, and bullied for their pro-Israel views. Increasingly, many Jewish students on campus feel that they must disavow or abandon an integral part of their faith and identity—Zionism—lest they be ostracized from campus life and the causes that they care deeply about.

This targeting of Jewish students for their faith-based identities and their support for Israel forms part of a worrisome trend of rising antisemitism at U.S. institutions of higher education. At a time when antisemitic incidents have increased across the United States, including a number of horrific and high-profile acts of violence and murder in recent years, it is understandable that campus antisemitism will have a traumatizing impact on Jewish students and affect their sense of well-being. Antisemitic incidents on campus—Jewish buildings and property defaced with swastikas and other antisemitic graffiti or the distribution of antisemitic flyers,

leaflets, and posters—have worsened in recent years as campuses become increasingly attractive targets for white supremacy groups. Fortunately, when the far-right comes onto campus from the outside, its rank hatred is typically addressed forcefully and unequivocally by university leaders. Antisemitism disguised as anti-Zionist/Israel criticism, however, is a different matter. Typically, it goes unaddressed and unchallenged. This is often true even when it manifests in discriminatory actions and harassing behavior that are in breach of university rules and procedures.

As we show in a number of sections in this *Guide and Resource Book*, a central problem on campus is that antisemitism is poorly understood. There is little understanding of when and how criticism of Israel can cross the line into a dangerous form of anti-Jewish hatred, leaving Jewish students—the majority of whom have personal and religious connections to the Jewish people’s ancestral homeland in Israel—feeling threatened and under siege. Part of the problem is that BDS materials and rhetoric also reflect a commitment to social justice and increasingly to the struggle against racism and oppression in America. This forces Jewish members of the campus community to choose between the national and local causes that they wish to support and their support for Israel and Zionism, an integral component of their identity.

Another problem is that the BDS movement’s vehement anti-Zionist and anti-Israel rhetoric, campaigns, and programming often end up trafficking in centuries-old conspiracies, tropes, and canards about Jewish power, greed, and undue influence. Theatrical in-person BDS events and campaigns where such antisemitic messaging is often featured can leave Jewish students feeling anxious and distraught. Social media postings and virtual campaigns that target Jewish-Zionist students (and sometimes faculty) with barrages of hateful and hurtful vitriol can impact emotional well-being. In some instances, Jewish members of the campus community may even fear for their personal safety.

In the essays and appendices that follow, we provide an overview of the BDS movement’s negative impact on the American campus and in the larger academic community. We then offer practical short-term and long-term solutions and best practices that faculty and university leaders can adopt in order to address the issues and improve the campus climate for Jewish, pro-Israel, and all students. The proposed suggestions and recommendations are consistent with our commitment to academic freedom and campus free expression. We support remedies that encourage free, open, and robust disagreement, argument, and debate since the best remedy for bad speech is to surround and confront it with good speech.

We believe that the faculty voice is essential. When faculty speak up in defense of academic freedom, free speech, and Jewish and pro-Israel students, it can have a significant positive impact on the campus climate and can give students a sense that they are not alone. Along with faculty, administrators must also speak up. Administrators have an obligation to speak out publicly in timely ways against objectionable speech in university spaces. University leaders should utilize their own free speech rights to publicly criticize speech that defames or denigrates members of the campus community. Courage and moral leadership are imperative; too often, leaders remain silent. University leaders should speak out when members of the campus Jewish community are targeted by loathsome and offensive rhetoric in the same way as they would against racial, sexual, ethnic, religious, or other forms of bigotry.

This *Guide and Resource Book* is divided into five sections. **Part I** provides a brief history of the anti-Israel movement on campus and its impact. In **Chapter 2**, Miriam F. Elman discusses how BDS seeks to isolate Israel from a global community of scholars by portraying the Jewish state as a colonial settler enterprise and a racist project that alone bears primary responsibility for the intractable conflict between Israel and the Palestinians. The skewed and one-sided analysis offered by BDS—its caricatured portrayal of Israel, Zionism, and Jewish history, as well as the refusal of its proponents to engage with experts who hold different perspectives—weakens the traditions of open scholarly research and exchange on campus. In **Chapter 3**, Raef Z. Shams concentrates on the relationship between anti-Zionism and antisemitism and on efforts by BDS activists to exclude Jewish

and pro-Israel students from social justice coalitions. Shams discusses the ways in which anti-Zionism and antisemitism overlap, distinguishing demonizing and delegitimizing attacks against Israel from standard criticism of Israeli policy. As Shams shows, even when virulent anti-Israel and anti-Zionist expression isn't motivated by antisemitism, the rhetoric of BDS and its associated campaigns can create an environment in which antisemitism is tolerated and becomes more acceptable. Miriam F. Elman describes such dynamics in **Chapter 4** while focusing on how the intersectionality paradigm and the emphasis on social justice has negatively impacted Jewish students. In particular, Elman highlights how intersectional alliance building has resulted in situations in which progressive student groups unite with campus chapters of national pro-BDS advocacy organizations to exclude Jewish students from social justice circles and initiatives—even those that have nothing to do with Israel.

“University leaders should speak out when members of the campus Jewish community are targeted by loathsome and offensive rhetoric in the same way as they would against racial, sexual, ethnic, religious, or other forms of bigotry.”

Part II focuses on the threat that the anti-Israel movement poses to the foundational principles of the American academy: free expression. In **Chapter 5**, Michael B. Atkins offers an overview of the legal framework that protects speech—including hate speech—on campus. In **Chapter 6**, Atkins then considers remedies that can be used when university leaders neglect to adequately address pervasive harassment or discriminatory conduct against Jewish students. The chapter distinguishes between the goal of requiring students to wrestle with difficult ideas, even those that may make them uncomfortable, and the university's obligation to cultivate a non-hostile learning environment. Spencer Kent concludes the section in **Chapter 7** by reviewing a number of recent cases in which BDS student activists have disrupted campus events and speakers. His chapter shows in stark relief how the BDS delegitimization campaign against Israel employs tactics that violate campus free expression and the open exchange of ideas.

Part III addresses the effort by pro-BDS faculty to implement an academic boycott of Israel. In **Chapter 8**, Miriam F. Elman frames the discussion by considering the role that faculty play in relation to issues that directly impact students, particularly BDS-inspired divestment campaigns and biased teaching. She also considers the impact of BDS on scholarship and faculty collegiality. While harassment of Jews on campus often involves peer-on-peer intimidation and bullying within the student body, Elman notes that pro-Zionist Jewish faculty are increasingly facing professional and personal risks from expressing their identities and viewpoints. Two additional essays by Spencer Kent (**Chapter 9**) and Raef Z. Shams (**Chapter 10**) consider recent boycott efforts in professional academic associations and the justifications and efforts to shut down student study abroad programs with Israeli universities.

Part IV brings the *Guide* to a close and considers next steps and actions for university administrators and faculty. In **Chapter 11**, Raef Z. Shams discusses campus trends for the near future and the challenges that the anti-Israel movement will continue to pose on many U.S. campuses. In **Chapter 12**, Naomi Greenspan underscores the need for antisemitism awareness training so that university leadership can become more knowledgeable about Jewish identity and the Jewish experience. This can help leadership better meet the needs and concerns of the campus Jewish community. Many diversity officials may recognize Jews as a minority but also as part of a powerful white majority, a perspective that can reinforce anti-Jewish stereotypes and canards while denying Jewish students the protections afforded to other minority groups on campus. Programs that enable equity, diversity, and inclusion officials and staff to address the complex and

often fraught issues surrounding anti-Jewish bias and bigotry in ways that support free speech on campus will be especially valuable. In the *Guide's* final essay (**Chapter 13**), Miriam F. Elman offers a concise overview of the key themes presented, including the problem of antisemitism and the demonization and delegitimization of Israel on campus. She also briefly highlights a number of recommendations for addressing the problem, including further engagement by faculty bodies and administrators on the impact that BDS is having on pedagogy and the curricular and co-curricular learning environment for students.

In addition to 13 chapters, this *Guide and Resource Book* includes a set of **Appendices** containing key documents, model statements, and helpful resources for further study, as well as for university responses and faculty actions. We invite faculty and university leaders to consider these as they work to address incidents and developments on their own campuses.

We hope that this *Guide and Resource Book* will serve as a useful tool for university leaders and faculty who are concerned about campus antisemitism and committed to sustaining their institutions as spaces for open exchange and inquiry. At AEN, we believe firmly that it is possible to balance the protection of free expression with strategies that foster a tolerant campus climate where everyone can feel welcome and respected—no matter their viewpoints or individual and group characteristics. Addressing the many different ways that the anti-Israel movement influences faculty, students, and the larger campus, as well as scholarship and the profession, we hope that the *Guide* will offer our faculty members and university leaders constructive and practical advice for how they can effectively respond.



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CHAPTER 2. THE ANTI-ISRAEL MOVEMENT ON THE U.S. CAMPUS¹

MIRIAM F. ELMAN

The anti-Israel movement, also known as BDS (Boycott, Divestment, and Sanctions), campaigns for academic, cultural, and economic boycotts of Israel, pressures organizations to divest from companies that do business with the country, and advocates for governments to reject agreements and relations with it.² With regard to academia, BDS proponents claim that their goal is to change Israeli government policy by targeting Israel's institutions of higher education. Academic boycott is presented as a nonviolent, albeit coercive, tactic meant to address the injustice and inequalities that Palestinians face. As we highlight in this *Guide and Resource Book*, however, the BDS movement's impact on U.S. campuses has not been constructive or benign.

BDS categorically rejects coexistence, peace building, or even dialogue with Israelis who self-define as Zionists. Israeli academics and Israel's American-Jewish supporters, including students and faculty, are impacted because BDS casts Israel and Zionism—the social justice movement for Jewish self-determination and a central component of Jewish identity for the majority of Jews—as fundamentally illegitimate. Israel is described as an unjust, colonialist-settler state that unfairly displaces Arabs.³ As Rachel Fish, Executive Director of the *Foundation to Combat Antisemitism*, recently put it:

BDS emphasizes the renewal of a Palestinian presence throughout the land of Israel while simultaneously rejecting the existence of a Jewish state. BDS advocates, including those on

1 This essay builds on and updates earlier sections of AEN's *Academic Freedom, Freedom of Expression and the BDS Movement: A Guide and Resource Book for University Leaders* (November 2016) and *Academic Freedom, Freedom of Expression, and the BDS Challenge: A Guide and Resource Book for Faculty* (September 2017).

2 See, e.g., the website for the BDS movement at <https://bdsmovement.net/what-is-bds>.

3 For the argument that settler-colonialism fails to provide a compelling framework for understanding Israel's founding see, e.g., Jack Strawson, "Colonialism" *Israel Studies*, Vol. 24, No. 2 (Summer 2019): 33–44 and S. Ilan Troen, *Countering the BDS Colonial Settler Narrative* (Washington, DC: Academic Engagement Network, Pamphlet Series, No. 4, April 2018) at <http://academicengagement.org/wp-content/uploads/2019/09/Troen-Pamphlet-Final.pdf>.

American university and college campuses, see Israel’s “original sin” as rooted not in the 1967 war...but in the wake of 1948—the establishment of the State of Israel itself.⁴

While BDS is not a dominant presence on every campus in the United States, where it is active it often creates a toxic climate for Jewish and Zionist students and faculty and an atmosphere that is hostile to campus free speech and academic freedom. BDS activism tends to isolate, demean, and marginalize Jews, Zionists, and Israelis on campus. As we document further in this *Guide and Resource Book*, BDS also tends to forestall reasonable conversations about the Israeli-Palestinian conflict, sows divisions, and polarizes the campus community. It thereby undermines the central mission of the academy.⁵

In recent years, BDS-affiliated organizations and activists have sought to exclude Jewish and Zionist students from participation in campus life, particularly in progressive coalitions and causes. Numerous campus campaigns have also been purposefully designed to discredit Jewish organizations that work on campus (including Hillel International, the Anti-Defamation League, and Taglit-Birthright). Pro-BDS activists routinely use tactics of disruptions and intimidation on campus, often refusing to engage in debate much less dialogue with Israelis or with Jewish students who are pro-Israel. Those who speak out against BDS, virulent anti-Zionism, and the demonization and delegitimization of Israel are frequently accused of acting in bad faith and of seeking to silence legitimate criticism of Israel.⁶ In recent incidents, Jewish students have been bullied and singled out for harassment, and even deemed unfit to serve in university leadership positions because of their presumed connections and attachments to Israel.⁷ There are now accumulating reports of Jewish students feeling compelled to hide their identities from fear of being targeted as racists or white supremacists.

BDS compromises educational goals by turning the complex and intractable Israeli-Palestinian conflict into a caricature that singles out one side for blame and establishes a false binary of oppressor versus oppressed. While many well-meaning people gravitate to the movement, believing that it offers a means for advancing Palestinian rights and peace in the Middle East, the reality is that BDS is reactionary and fundamentally illiberal. Indeed, in demonizing and delegitimizing Israel, applying double standards toward it, and denying the Jewish people the universal right to self-determination, BDS has been widely condemned as antisemitic.⁸ Recently released reports reveal a disturbing link between BDS and antisemitic hate speech.

4 Rachel Fish, “BDS: Binaries, Divisions, and Silencing,” in Aaron J. Hahn Tapper and Mira Sucharov, editors, *Social Justice and Israel/Palestine: Foundational and Contemporary Debates* (Toronto: University of Toronto Press, 2019), p. 249.

5 See also Jonathan Marks, *Let’s Be Reasonable: A Conservative Case for Liberal Education* (Princeton: Princeton University Press, 2021), chapter 5: “The Boycott, Divestment, and Sanctions Movement: A Case Study,” pp. 141–169.

6 David Hirsh, *Boycott, Divestment, and Sanctions (BDS) and Antisemitism* (Washington, DC: Academic Engagement Network, Pamphlet Series, No. 1, December 2016) at <http://academicengagement.org/wp-content/uploads/2019/09/David-Hirsh-pamphlet.pdf>.

7 In a particularly egregious case, an undergraduate student at the University of Southern California felt compelled to resign her student government position after being subjected to a barrage of online harassment over her Zionist beliefs, which detractors insisted rendered her unqualified for office. See Aaron Bandler, “USC Student VP Resigns, Says She Was Bullied for Being a Zionist,” *Jewish Journal*, August 6, 2020, <https://jewishjournal.com/featured/319981/usc-student-vp-resigns-says-she-was-bullied-for-being-a-zionist/>; Gabriel Greschler, “S.F. Native Resigns from USC Student Government over Israel Views,” *JWeekly*, August 11, 2020, <https://www.jweekly.com/2020/08/11/s-f-native-resigns-from-usc-student-government-over-israel-views/>.

8 The International Holocaust Remembrance Alliance (IHRA) definition of antisemitism recognizes various manifestations of contemporary antisemitism, including the ways that it is often directed against Israel—for example, by calls for Israel’s

As the documented evidence of BDS online and print materials show, it is not uncommon for its leaders and affiliated activists to evoke classical antisemitic imagery and to traffic in conspiracies, tropes, and canards about Jewish power and influence.⁹ As a result, BDS campaigns can create tensions that may result in the intimidation or harassment of pro-Israel students. The Anti-Defamation League (ADL) notes that even when the anti-Israel activism of BDS supporters is not motivated by antisemitism, it often gives rise to a hostile campus environment that makes antisemitic rhetoric and expression more acceptable.¹⁰ Furthermore, there are well-documented and disturbing connections between BDS organizations and terror groups. BDS activists routinely glorify terrorists and endorse violence, including by voicing support for terror or violent uprisings. Thus, BDS fails to foster a pro-Palestinian activism on campus that promotes reasoned discussion and debate.¹¹

destruction, comparisons of Israel to Nazi Germany, and the marking of Israel as uniquely deserving of opprobrium. In recent years, the IHRA definition has been increasingly championed as an important educational tool for understanding and combating antisemitism on campus. For further discussion see chapter 3 in this *Guide*. See also Mark Goldfeder, “Defining Antisemitism,” *Seton Hall Law Review*, forthcoming, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3798093. Goldfeder urges universities to proactively adopt the IHRA definition for use in evaluating the motivations behind discriminatory and harassing conduct.

- 9 For a compilation of such materials, see the 93-page report *Behind the Mask: The Antisemitic Nature of BDS Exposed* (State of Israel: Ministry of Strategic Affairs, September 2019) at <https://4il.org.il/wp-content/uploads/2019/09/MSA-report-Behind-the-Mask.pdf>. For a review, see Cary Nelson, “Book Review: Behind the Mask: The Antisemitic Nature of BDS Exposed,” *Fathom Journal*, October 2019 at <https://fathomjournal.org/book-review-behind-the-mask-the-antisemitic-nature-of-bds-exposed/>. See also Charles Asher Small, David Patterson, and Glen Feder, *National Students for Justice in Palestine (NSJP): Antisemitism, Violent Extremism and the Threat to North American Universities* (New York: Institute for the Study of Global Antisemitism and Policy—ISGAP, 2019) at <https://isgap.org/post/2019/10/special-isgap-report-the-threat-to-academic-freedom-from-national-students-for-justice-in-palestine/>.
- 10 Anti-Defamation League, “BDS: The Global Campaign to Delegitimize Israel,” <https://www.adl.org/resources/backgrounders/bds-the-global-campaign-to-delegitimize-israel>. See also Jonathan Greenblatt, “Confronting the Rise in Anti-Semitic Domestic Terrorism, Congressional Testimony,” Hearing Before the House Homeland Security Committee, Washington, DC, January 15, 2020, <https://www.adl.org/media/13948/download>.
- 11 For an overview of the ways in which BDS groups and activists have provided rhetorical support for terrorist activity, including on U.S. campuses, see Anti-Defamation League, “Some US Anti-Israel Activists Express Support for Terrorist Activity,” September 23, 2020 at <https://www.adl.org/blog/some-us-anti-israel-activists-express-support-for-terrorist-activity#>. On the ideological, financial, and interpersonal relationships between BDS groups and U.S.-designated terrorist organizations, see the comprehensive declassified study *Terrorists in Suits: The Ties Between NGOs Promoting BDS and Terrorist Organizations* (State of Israel: Ministry of Strategic Affairs, February 2019) at https://www.gov.il/en/Departments/General/terrorists_in_suits. For a recent example, see Lahav Harkov, “BDS Groups from US and Europe Team Up with Iran and Hamas Against Israel,” *The Jerusalem Post*, March 8, 2021, <https://www.jpost.com/arab-israeli-conflict/western-bds-groups-team-up-with-iran-hamas-islamic-jihad-661301>. Several lawsuits against U.S.-based BDS organizations that operate on campuses, alleging terror recruitment of students and material support for Palestinian terrorist groups, have recently been filed. See, e.g., Paul Miller, “Are Terror Groups Recruiting on College Campuses?” *Daily Wire*, August 12, 2019 at <https://www.dailywire.com/news/miller-are-terror-groups-recruiting-college-paul-miller>; David May, “NGOs Should Not Be Providing Fiscal Sponsorships to Terror Organizations,” *The Jerusalem Post*, April 12, 2020 at <https://www.jpost.com/opinion/ngos-should-not-be-providing-fiscal-sponsorship-to-terrorist-organizations-624415> and Maayan Jaffe-Hoffman, “U.S. human rights group sued for funding Palestinian balloon terror,” *The Jerusalem Post*, November 15, 2019 at <https://www.jpost.com/arab-israeli-conflict/gaza-news/palestinian-human-rights-group-charged-for-incendiary-balloons-in-90-m-lawsuit-607894>.

ORIGINS OF BDS

The BDS movement was launched in September 2001, just before the attacks of 9/11, at the *United Nations World Conference Against Racism, Racial Discrimination, Xenophobia, and Related Intolerance* (WCAR) held in Durban, South Africa. There, radical anti-Israel groups hijacked a meeting aimed at creating a global front against racism and intolerance and reoriented its focus into a concerted attack against Israel. An associated forum of non-governmental organizations (NGOs) held in Durban's Kingsmead Stadium developed a global campaign to brand Israel as an heir to apartheid-era South Africa. Officials from *Human Rights Watch* and *Amnesty International* allied with these groups to condemn Israel for war crimes, ethnic cleansing and apartheid, and genocide and called for the country's "complete international isolation."¹²

While the BDS platform and the mechanisms for anti-Israel boycotts were thus in place years before the Palestinian Campaign for the Academic and Cultural Boycott of Israel (PACBI) was founded in 2004, BDS leaders and activists typically maintain that the movement originated not in Durban but rather in a subsequent call from Palestinian civil society organizations. By obfuscating the movement's true origins, the BDS movement seeks to blur any connection between it and the outrageous 2001 Durban meeting, from which the United States walked out in protest.¹³ Its leaders also aim to increase the movement's legitimacy by casting it as an authentic call originating from independent, popular sources in Palestinian society.¹⁴ This activist façade shields BDS from the charge that it emerged from within a wider context and a long and ugly history of anti-Jewish and anti-Israel boycotts and sanctions.¹⁵

12 Kenneth S. Stern, *The Conflict Over the Conflict: The Israel/Palestine Campus Debate* (Toronto: University of Toronto Press, 2020), pp. 77–80.

13 Alex Joffe, "Why the Origins of the BDS Movement Matter," *Times of Israel*, August 31, 2016; William A. Jacobson, "The REAL History of the BDS Movement," *Legal Insurrection*, December 18, 2016 at <https://legalinsurrection.com/2016/12/the-real-history-of-the-bds-movement/>.

14 Moreover, a received wisdom is that Omar Barghouti, an Israeli resident and prolific writer and polemicist, is the founder of the BDS movement. The reality is that Barghouti was added as a spokesperson in order to give BDS a "more authentic façade." That is, Barghouti—a Qatari born to Palestinian parents and raised in Egypt—emerged as the face of BDS solely "for marketing purposes" years after the BDS launch in Durban and the first boycott campaigns of Israeli universities initiated by British academic unions. See Gerald Steinberg, "No, Omar Barghouti is not a co-founder of the Israel boycott movement BDS," *The Jewish Chronicle*, October 8, 2019 at <https://www.thejc.com/comment/comment/no-omar-barghouti-is-not-a-co-founder-of-the-israel-boycott-movement-bds-1.489828>. Married to an Israeli Arab, Barghouti lives in Israel, where he has earned a degree from Tel Aviv University—an institution that he wants all academics globally to shun but which he has not boycotted himself.

15 Fish, "BDS: Binaries, Divisions, and Silencing," p. 247; David May, *War By Other Means: A History of Anti-Israel Boycotts, From the Arab League to BDS* (Washington, DC: Foundations for Defense of Democracies, January 2020) at <https://www.fdd.org/analysis/2020/1/20/war-by-other-means>.

THE CENTRAL GOAL OF THE ANTI-ISRAEL MOVEMENT: ANTI-NORMALIZATION

The BDS movement's rigid policy of "anti-normalization" characterizes Israel as unique among the nations of the world in its malevolence and criminality; thus, it encourages its supporters to avoid all attempts at mutual understanding.¹⁶ Instead, the movement seeks to advance a tendentious argument that portrays Israel as an irredeemable state. It is a view that negates the importance of Israel as a refuge and a haven for the Jewish people (nearly half of the world's Jews currently reside in Israel). It also excludes from its attention Israel's many achievements as a post-colonial nation after independence, ignores the country's relative successes in integrating waves of refugees from over 100 nationalities into a multicultural, multiethnic, multiracial and democratic sovereign state, and neglects Israel's own efforts at peace and conflict resolution.

Of particular relevance for the campus environment is that BDS explicitly encourages its followers to express solidarity with the Palestinian struggle by opposing any and all projects that might promote cooperation and dialogue between Israelis and Palestinians.¹⁷ The PACBI makes it abundantly clear that:

[I]nternational supporters of BDS are asked to refrain from participating in any event that morally or politically equates the oppressor and oppressed, and presents the relationship between Palestinians and Israelis as symmetrical. Such an event should be boycotted because it normalizes Israel's colonial domination over Palestinians and ignores 'the power structures and relations embedded in the oppression.'¹⁸

Rationalizations for this anti-normalization stance often center on the false claim that Israel is an apartheid state—meaning that, like the former South African regime, it enforces racialized segregation and disenfranchisement.¹⁹ This unfounded claim is institutionalized in Israel Apartheid Week (IAW), a yearly ritual on

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- 16 Miriam F. Elman, "BDS 'Anti-Normalization' Is a Mockery of Progressive Values," *The Algemeiner*, July 1, 2019 at <https://www.algemeiner.com/2019/07/01/bds-anti-normalization-is-a-mockery-of-progressive-values/>; Asaf Romirowsky and Alexander H. Joffe, "The Anti-Israel movement's 'anti-normalization' campaign," *The National Post*, August 3, 2016 at <https://nationalpost.com/opinion/the-anti-israel-movements-anti-normalization-campaign>; and Joel Braund and Huda Abuarquob, "A Bigger Threat Than BDS: Anti-normalization," *Haaretz*, July 2, 2015 at <https://www.haaretz.com/jewish/premium-worse-than-bds-anti-normalization-1.5374940>.
 - 17 Rahim Kurwa, "Why Students in Solidarity with Palestine Should Not Join the Olive Tree Initiative," *Jadaliyya*, February 6, 2013. See also Zeina Azzam, "Israel as Oppressor, Palestine as Oppressed: The 'Normalization' of What is Not Normal," *Mondoweiss*, June 16, 2016 at <http://mondoweiss.net/2016/06/palestine-oppressed-normalization/>. BDS activists and the BDS National Committee (BNC) have opposed the recent Abraham Accords on similar grounds. See, e.g., Ali Abunimah, "Who will be next to betray Palestine?" *Electronic Intifada*, August 14, 2020, <https://electronicintifada.net/blogs/ali-abunimah/who-will-be-next-betray-palestine>.
 - 18 PACBI Statement, "Israel's Exceptionalism: Normalizing the Abnormal," October 31, 2011 at <https://bdsmovement.net/news/israel%E2%80%99s-exceptionalism-normalizing-abnormal>.
 - 19 For critiques of the claim see, e.g., Donald G. Ellis, "Apartheid," *Israel Studies*, Vol. 24, No. 2 (Summer 2019): 63–72; Tshediso Mangope, "I'm a South African Activist Who Used to Fight Against Israel—Until I Went There," *The Tower Magazine*, Issue 45 (December 2016) at <http://www.thetower.org/article/im-a-south-african-activist-who-used-to-fight-against-israel-until-i-went-there/>; Benjamin Pogrund, *Drawing Fire: Investigating the Accusations of Apartheid in Israel* (Lanham, MD: Rowman & Littlefield, 2014); and Benjamin Pogrund, "Why Israel is Nothing Like Apartheid South

many campuses that takes place on a rolling basis between late February and mid-April yearly, and varies in length from one to two weeks. IAW typically includes anti-Israel lectures, rallies, and demonstrations such as erecting fake security barriers, imposing mock checkpoints, and acting out mass “die-ins.” Begun in Toronto in 2005, IAW has mushroomed into a global happening and an annual opportunity for those obsessed with Israel’s alleged wrongdoings to “engage in anti-Semitic bullying under the guise of human rights.”²⁰ The immediate goal of this programming may be to get university student governments to pass BDS resolutions. However, as noted by scholars Andrew Pessin and Doron Ben-Atar:

...the long-term goal is to transform the minds of impressionable and passionate young students by bombarding them with the most toxic images of Israel possible...These events are rarely dry or factual or scholarly but rather emotional, graphic, imaginistic and sloganistic, designed to pair *Israel* with words such as *apartheid*, *racist*, *colonial*, and such. On many campuses, students spend an entire academic year repeatedly confronted with these toxic images and word pairings. They may learn little about Israel or the Israeli-Palestinian conflict, but they will come away with *Israeli Apartheid* burned into their brains.²¹

A related issue is that BDS supporters decry any attempt to speak about Israel’s positive attributes because this is viewed as a “whitewash” of Israel’s alleged mistreatment of the Palestinians. BDS depicts any discussion of, for instance, Israel’s strong record on LGBTQ rights as “pinkwashing.” Israel’s commendable efforts at climate change mitigation and environmental improvements are similarly denigrated as “greenwashing.” Positive references to the successes of Israel’s *Mizrachi* and Sephardic Jews, who fled and were expelled from the Muslim-majority countries of the Middle East and North Africa, or of Israel’s African Jews, including Ethiopians, are dismissed in parallel form as “brownwashing.”²²

Lastly, the uncritical embrace of Palestinian resistance can and does spill over to justifications for terrorism and violent *intifada*, the rocketing of civilian towns and the killing of innocents, along with the tolerance for and sometimes even glorification of terrorists and terror organizations as integral parts of an anti-imperialist and anti-colonialist platform. This is a consequence of the BDS movement’s rejection of mutual steps toward peace by Israelis and Palestinians in favor of creating conditions to achieve a more radical ultimate aim: the elimination of the Jewish state. Unfortunately, those among the broader

Africa,” *The New York Times*, March 31, 2017 at <https://www.nytimes.com/2017/03/31/opinion/why-israel-is-nothing-like-apartheid-south-africa.html>.

- 20 Ari Blaff, Josh Benjamin, Ariel Glikman, and Emily Kalo, “Israel Apartheid Week: A (Poorly Hidden) Wolf in Sheep’s Clothing,” *CJN: The Canadian Jewish News*, April 3, 2019 at <https://www.cjnews.com/perspectives/opinions/israel-apartheid-week-a-poorly-hidden-wolf-in-sheeps-clothing>.
- 21 Andrew Pessin and Doron S. Ben Atar, “Introduction,” in Andrew Pessin and Doron S. Ben Atar, editors, *Anti-Zionism on Campus: The University, Free Speech, and BDS* (Bloomington: Indiana University Press, 2018), p. 7.
- 22 For a critique of the pinkwashing argument, see, e.g., R. Amy Elman, *BDS & The Queer Appropriation of Pinkwashing* (Academic Engagement Network, Pamphlet Series No. 6, April 2019) at http://academicengagement.org/wp-content/uploads/2019/10/aen_pamphlet2-1-4.pdf; Corinne E. Blackmer, “Pinkwashing,” *Israel Studies*, Vol. 24, No. 2 (Summer 2019): 171–181; James Kirchik, “Pink Eye,” *Tablet Magazine*, November 29, 2011 at <https://www.tabletmag.com/sections/israel-middle-east/articles/pink-eye>; and Alan Dershowitz, “The Next Hate Fest,” *New York Post*, February 25, 2013 at <https://nypost.com/2013/02/25/the-next-hate-fest/>.

membership, many of whom may not be aware of the movement's true intentions, will uncritically end up condoning violence or even celebrating murderers.²³

THE DEMONIZATION AND DELEGITIMIZATION OF ISRAEL ON CAMPUS

BDS has become an influential voice in many non-academic settings, such as labor unions, mainline churches, and municipal city councils. BDS activists have pressured private and public pension funds, and have exerted considerable sway in music and the arts. However, the movement is especially pernicious on American campuses.²⁴ Faculty and students who promote BDS are dismissive of scholarship that explores the complexities of the Israeli-Arab and Israeli-Palestinian conflicts or that puts them in an appropriate comparative context. Probing the full history of Israel and its foundational place in the Jewish faith and in the history of the Jewish people is also rejected out of hand. Nor are some of the most prominent leaders of the BDS movement on campus concerned with modeling reasoned discussion and debate on these contentious topics. Prominent BDS activist and former academic Steven Salaita, for example, whose many offensive and antisemitic social media postings cost him a tenure-track job, once infamously claimed that civility is the “language of genocide” rather than an important and laudable mode of public discourse.²⁵ An extreme and unrelenting portrayal of Israel and Zionism contributes to and reflects an increasingly intolerant campus climate—even in the classroom.²⁶

Universities and colleges are meant to be places where students and faculty feel encouraged to broaden their conceptual boundaries and question their assumptions. Students should also feel confident that they have the support of faculty who can guide them thoughtfully in these personal journeys. Instead, the BDS movement offers up monochromatic and unnuanced understandings of Israel and the Middle East conflict, rejecting the multiplicity of perspectives in the existing scholarly literature and offering in its place only a rigid intellectual uniformity that often resembles political indoctrination. While it is important to respect the rights of pro-BDS faculty and students to express their views, it is also necessary to recognize that much of the anti-Israel and anti-Zionist rhetoric that is at the core of the BDS narrative is deeply offensive and even antisemitic.²⁷

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- 23 Jonathan Marks, “Zooming with Terror,” *Commentary*, September 2, 2020 at <https://www.commentarymagazine.com/jonathan-marks/zooming-with-terror/>; Nic Rowan, “Anti-Zionist US Student Group Honors Female Palestinian Terrorists to Celebrate International Women’s Day,” *The Algemeiner*, March 10, 2020 at <https://www.algemeiner.com/2020/03/10/anti-zionist-us-student-group-honors-female-palestinian-terrorists-to-celebrate-international-womens-day/>; William A. Jacobson, “UC-Berkeley anti-Israel Activists Rip Up Photo of Rasmea Odeh’s terror victims,” *Legal Insurrection*, February 16, 2020 at <https://legalinsurrection.com/2020/02/uc-berkeley-anti-israel-activists-rip-up-photo-of-rasmea-odehs-terror-victims/>; and John Rossomando, “There is Growing Support for Terrorists on College Campuses,” *The Algemeiner*, May 21, 2019 at <https://www.algemeiner.com/2019/05/21/there-is-growing-support-for-terrorists-on-college-campuses/>.
- 24 An excellent resource about BDS campaigns in various arenas is Cary Nelson, *Dreams Deferred: A Concise Guide to the Israeli-Palestinian Conflict & the Movement to Boycott Israel* (Bloomington: MLA Members for Scholars’ Rights and Indiana University Press, 2016).
- 25 Miriam F. Elman, “Moving on from Controversy,” *The News-Gazette*, December 21, 2014 at https://www.news-gazette.com/opinion/guest-commentary/moving-on-from-controversy/article_7f089c8c-08db-590b-b3eb-4a65a608982f.html.
- 26 See, e.g., Marilyn Chavez-Martinez, “Anthropology Guest Lecturer Accused by Students of Encouraging Anti-Semitism,” *Daily Bruin*, May 16, 2019 at <https://dailybruin.com/2019/05/16/anthropology-guest-lecturer-accused-by-students-of-encouraging-anti-semitism/>; and Aaron Bandler, “UCLA Guest Lecturer Calls Zionists White Supremacists,” *Jewish Journal*, May 21, 2019 at https://jewishjournal.com/los_angeles/298850/ucla-guest-lecturer-calls-zionists-white-supremacists/.
- 27 For more on the relationship between anti-Zionism and antisemitism, see chapter 3 in this *Guide*. See also Shany Mor, “On Three Anti-Zionisms,” *Israel Studies*, Vol. 24, No. 2 (Summer 2019): 206-217; Michael Walzer, “Anti-Zionism and

BDS applies a double standard to Israel, its founding, and its human rights record. There is no similar campus boycott, divestment, and sanctions movement against any other nation state, no matter its actions and behavior. This obsessive focus on Israel, ignoring other conflicts involving occupied territories and the self-determination of peoples, distorts and oversimplifies the history of the Arab-Israeli and Israeli-Palestinian conflicts, framing them as battles between an alleged racist entity tainted by the freighted legacy of European colonialism versus an indigenous victimized people. The upshot is that

“BDS applies a double standard to Israel, its founding, and its human rights record. There is no similar campus boycott, divestment, and sanctions movement against any other nation state, no matter its actions and behavior.”

BDS presents the intractable Israeli-Palestinian conflict as a one-sided attack on human rights, with Israel as the original and sole aggressor and the only malefactor. The BDS movement purposefully erases all context and complexity—simplifying the history of the conflict and its contemporary contours—in its single-minded effort to stimulate a new international anti-imperialist struggle focused against the world’s only Jewish state. It is difficult to see how such a strategy and its accompanying tactics cannot but contribute to a hostile campus climate that works to silence and intimidate those holding an opposing point of view.²⁸

It is important to realize that the ultimate aim of BDS is not the reform or transformation of Israeli policy but rather the elimination of the Jewish state. There can be little doubt about the goals that animate the official BDS movement. BDS leaders have been explicit and vocal in their advocacy for a “one-state solution” to replace Israel with an Arab-majority Palestine. These goals are implicit in the slogan that BDS student partisans frequently chant at demonstrations on campuses: “From the river to the sea, Palestine shall be free.”²⁹ BDS leaders openly speak and write of a one-state solution, arguing that “accepting Israel as a ‘Jewish state’ on our land is impossible.” BDS proponents will not accept “two states for two peoples” because this outcome presumes that there are two peoples and two nations with equally legitimate moral, historical, religious and legal claims. In fact, BDS leaders call a two-state solution—the notion that a Jewish nation-state should exist side-by-side a sovereign state of Palestine— “an immoral solution.”³⁰

Anti-Semitism,” *Fathom Journal* (October 2019) at <https://fathomjournal.org/anti-zionism-and-anti-semitism/>; and Alyza D. Lewin, “Recognizing Anti-Zionism as an Attack on Jewish Identity,” *Catholic University Law Review*, Vol. 68, No. 4 (Fall 2019): 643–651. For the view that BDS should not be censored, see Pamela Paresky and Samantha Harris, “Yes, Anti-Zionism Is Anti-Semitic. But It’s Still Protected Speech,” *The Forward*, August 26, 2019 at <https://forward.com/opinion/430307/yes-anti-zionism-is-anti-semitic-but-its-still-protected-speech/>.

- 28 Ironically, BDS also portrays the Palestinian people with a similar one-dimensional portrait. Thus, Palestinians are cast as helpless victims with little agency of their own—they are acted upon rather than actors in their own right. Israel’s security concerns, including those posed by hostile states and terrorist non-state actors, are dismissed as overblown or illusory. Open hatred and incitement to violence are similarly overlooked or dismissed.
- 29 For an extended discussion of why many Jews find this ubiquitous slogan hateful, see David Schraub, “‘From the River to the Sea’: A Guide to the Perplexed,” *The Debate Link*, December 1, 2018 at <http://dsadevil.blogspot.com/2018/12/from-river-to-sea-guide-to-perplexed.html>.
- 30 See Silvia Cattori, “Omar Barghouti: No State Has the Right to Exist as a Racist State,” *Voltaire Network*, December 7, 2007 at <http://www.voltairenet.org/article153536.html>; see also Ali Mustafa, “Boycotts Work: An interview with Omar Barghouti,” *Electronic Intifada*, May 31, 2009 at <https://electronicintifada.net/content/boycotts-work-interview-omar-barghouti/8263>. Similarly, Ali Abunimah, the Chicago-based cofounder of the vehemently anti-Israel website *The Electronic Intifada* and a prominent BDS leader, asserts that Israel’s right to exist as a Jewish state lacks any legal or moral

The BDS goal is essentially to readdress the creation of the Jewish state, not to engage in an entirely legitimate debate about Israel's claim to sovereignty over territories it captured during the 1967 war. As scholar Donna Robinson Divine has recently noted in writing about BDS:

An academic jargon draped in scholarly prestige implies that Israel's founding in 1948 is not settled history. The intention is not simply to raise ethical questions but also to suggest the possibility of what is taken for granted as a historical wrong.³¹

BDS leaders also proclaim that the movement stands “against Israel until it complies with international law and Palestinian rights.” Accordingly, the movement embraces a “rights-based approach,” claiming to speak for all Palestinians living in the West Bank and Gaza, in Israel, and across the globe as well. Its stated objectives include promoting the “right of return” of refugees from 1948 and their descendants. However, embracing the so-called “right of return” for millions of Palestinian refugees and their descendants is tantamount to calling for the end of the modern Jewish state of Israel.³² Indeed, looking at the so-called “right of return” for Palestinian refugees helps to elucidate BDS thinking. No other displaced peoples from the immediate postwar era—including millions of refugees who were shifted around Europe and overseas, in the Mediterranean and Middle East, or in South Asia—have been recognized as possessing such guaranteed rights. From 1945 to 1950, between 12 and 14 million Germans or people with German background were forced to leave Eastern Europe and Russia.³³ In 1947 to 1948, multiple millions of Hindus, Muslims, and Sikhs traversed the Indian subcontinent amidst the bloody creation of two states there by the partition of India and Pakistan. More than one million people died. Yet, there has been no recognized right of return for any of these peoples.



Youtube screenshot of a pro-BDS demonstration

foundation. Abunimah rejects the idea that Jews are a people or a nation and believes that Jews have no right to national self-determination. See Ali Abunimah, *The Battle for Justice in Palestine* (Chicago: Haymarket Books, 2014).

- 31 Donna Robinson Divine, “Word Crimes: Reclaiming the Language of The Israeli-Palestinian Conflict,” *Israel Studies*, Vol. 24, No. 2 (Summer 2019): 14.
- 32 Adi Schwartz and Einat Wilf, *The War of Return: How Western Indulgence of the Palestinian Dream Has Obstructed the Path to Peace* (New York: All Points Books, 2020).
- 33 See R. M. Douglas, *Orderly and Human: The Expulsion of the Germans after the Second World War* (New Haven: Yale University Press, 2012). See also Nisid Hajari, *Midnight's Furies: The Deadly Legacy of India's Partition* ((New York: Houghton Mifflin Harcourt, 2015).

In sum, BDS expresses little interest in the numerous alternative ways to comprehend the Israeli story or in entertaining and exploring different perspectives for peace and conflict resolution. BDS activists caricature Zionism, the movement for Jewish nationalism and self-determination, as a racist ideology; repeat the calumny first sponsored by Soviet bloc campaigners in the 1970s and 1980s that “Zionism is racism”; and view Israel as akin to apartheid South Africa rather than a vibrant democracy and a complex multicultural society.³⁴

BDS AS AN ASSAULT ON ACADEMIC FREEDOM AND CAMPUS FREE SPEECH

BDS undermines a central tenet of academic life: the right of scholars and students to choose what and with whom they will study. Statements by the Association of American Universities (AAU) and the Association of Public & Land-Grant Universities (APLU) emphasize that academic boycotts directly violate academic freedom. The AAU, in its 2016 statement opposing academic boycotts of Israel, affirms:

The Executive Committee of the Association of American Universities strongly opposes a boycott of Israeli academic institutions. . . Any such boycott of academic institutions directly violates academic freedom, which is a fundamental principle of AAU universities and of American higher education in general. Academic freedom is the freedom of university faculty responsibly to produce and disseminate knowledge through research, teaching, and service, without undue constraint. It is a principle that should not be abridged by political considerations. American colleges and universities, as well as like institutions elsewhere, must stand as the first line of defense against attacks on academic freedom. Efforts to address political issues, or to address restrictions on academic freedom, should not themselves infringe upon academic freedom. Restrictions imposed on the ability of scholars of any particular country to work with their fellow academics in other countries, participate in meetings and organizations, or otherwise carry out their scholarly activities violate academic freedom. The boycott of Israeli academic institutions therefore clearly violates the academic freedom not only of Israeli scholars but also of American scholars who might be pressured to comply with it.³⁵

The APLU response similarly states:

The core mission of the academic community is to create and disseminate knowledge through research, teaching and service. Freedom of inquiry and expression are the foundational principles of this vital work, and free exchange of ideas is its lifeblood. This boycott wrongly limits the ability of American and Israeli academic institutions and their faculty members to exchange ideas and collaborate on critical projects that advance humanity, develop new technologies, and improve health and well-being across the globe.³⁶

34 For more on Soviet forms of antisemitic anti-Zionism and how this messaging has been adopted by the anti-Zionist BDS movement, see Izabella Tabarovsky, “Soviet Anti-Zionism and Contemporary Left Antisemitism,” *Fathom Journal*, May 2019, <https://fathomjournal.org/soviet-anti-zionism-and-contemporary-left-antisemitism/>.

35 Association of American Universities, “AAU Board Reaffirms Opposition to Israel Boycott,” February 14, 2016 at <https://www.aau.edu/newsroom/press-releases/aau-board-reaffirms-opposition-israel-boycott>.

36 Association of Public & Land-Grant Universities, “APLU Statement in Opposition to Boycott of Israeli Academic Institutions,” January 2, 2014 at <http://www.aplu.org/news-and-media/News/2014/01/02/aplu-statement-in-opposition-to-boycott-of-israeli-academic-institutions>.

As highlighted in the Appendices of this *Guide and Resource Book*, many other professional academic associations, along with university presidents and chancellors, have also spoken out against the academic boycott of Israel and the blacklisting of Israeli academics. As noted in these many statements, faculty must be mindful of the overriding importance of academic freedom, freedom of inquiry and expression, and the application of these values. The BDS movement is an obstacle to reasonable discussion and debate on campus because it insists that there are certain viewpoints that are beyond the pale and that certain scholars should be shunned merely because of their nationality:

...anti-Israel activists have hijacked the dialogue of the Israeli/Palestinian conversation and have decided that they, and they alone, should and will decide whose views will be heard and whose will not, something that supporters of Israel have been experiencing for more than a decade already. Anti-Israel campus activists have conducted an ongoing campaign to delegitimize and libel Israel, and their tactics include a concerted attempt to shut down dialogue and debate—anything that will help to “normalize” Zionism, permit pro-Israel views to be aired, or generate support for the Jewish state.³⁷

Similarly, Stanford University professor Russell Berman explained in a paper at the annual meeting of the American Philosophical Association (APA) in 2016:

[W]hat underpins the boycott movement as an expression of contemporary radicalism is not only an interest in the Middle East but also an antagonism toward ideas and thought. The strategy of constraining academic speech with regard to Israel/Palestine is ultimately indistinguishable from the proliferation of speech codes on campuses, the retraction of invitations to controversial speakers, and the troubling development of a university culture where critical thought is subject to trigger warnings.³⁸

Academic boycotts are inimical to the fundamental principles and core values that define the academy, including the open communication of ideas and the academic freedom to conduct intellectual exchange without fear of retaliation (see further chapters 5, 7 and 10 in this *Guide*). Nonetheless, a growing number of U.S.-based faculty members, and even in some cases administrators, have publicly pledged support for the US Campaign for the Academic and Cultural Boycott of Israel (USACBI). The official USACBI guidelines urge members of the academic community “to boycott and/or work towards the cancellation or annulment of events, activities, agreements, or projects involving Israeli academic institutes or that otherwise promote the normalization of Israel in the global academy...or violate the BDS guidelines.”³⁹ Were faculty to implement these guidelines, they would be engaging in activities that directly and substantively harm their own students

37 Richard L. Cravatts, “How Universities Enable Hijacking Free Speech When Jews Are Involved,” *Israel National News/Arutz 7*, November 26, 2019 at <http://www.israelnationalnews.com/Articles/Article.aspx/24803>. See also Marks, *Let’s Be Reasonable*, pp. 141–169.

38 Russell A. Berman, “Academic Boycotts and Professional Responsibility,” *Telos*, May 10, 2016 at <http://www.telospress.com/academic-boycotts-and-professional-responsibility/>.

39 Some have argued that advocacy of the academic boycott of Israel should disqualify a potential candidate from university leadership and administrative positions. See, e.g., Steven Lubet, “The Dean of BDS?” *The Bulwark*, June 29, 2020 at <https://thebulwark.com/the-dean-of-bds/>.

and fellow faculty by undermining their collaborative research and teaching projects with Israeli universities and scholars; by working toward the closure of their university's study abroad programs in Israel; by refusing to write letters of recommendation for students wishing to study in Israel; and by attempting to cancel or shut down events featuring Israeli leaders or scholars organized by colleagues or students.

Implementing an academic boycott of Israel subverts scholarly and educational opportunities and curtails the academic freedom of any student or faculty member wanting to study or engage in research about or in Israel, or to work with Israeli scholars. This is particularly the case on campuses where students and faculty alike benefit from their institution's collaborative relationships with Israeli academic institutions and scholars. However, it is important to underscore that BDS advocates have the same rights to present their viewpoints and advocate for their perspective as do other members of the university community. Ironically, BDS campaigners on campus seek to deny the right of academic freedom to Israeli academics, and even to their own students and colleagues, while raising false and overblown allegations that pro-Palestinian voices on campus are being silenced.⁴⁰

THE ANTI-ISRAEL MOVEMENT ON CAMPUS: NEW TRENDS AND DEVELOPMENTS

In recent years, there have been increasingly aggressive efforts on the part of anti-Israel activists and scholars to delegitimize Israel and Zionism on campus. To be sure, anti-Israel divestment and boycott campaigns, spearheaded by BDS campaigners and groups allied with them, continue to be featured on college campuses. But the BDS movement has also become more insidious, targeting not merely Israel's right to exist but also the right of students and faculty to express their Jewish and Zionist identities on campus. As former Israeli parliamentarian Einat Wilf and University of Minnesota Professor of Law Oren Gross recently put it,

Whether you believe that anti-Zionism is not anti-Semitism, or whether you believe it has become the new shiny and respectable veneer behind which anti-Semitism hides—as we do—there is no question that professed and vocal anti-Zionism has become the price of entry of Jews into progressive spaces...Where the left celebrates a multiplicity of groups asserting their own identities, American Jews are required to shed their identity in order to be, perhaps, counted.⁴¹

It is important to note that not all U.S. campuses have become hotbeds of virulent anti-Israel activism.⁴² Yet, at far too many universities and colleges, a pernicious form of pro-BDS activism ranges today from attempts to exclude Jewish and Zionist students from participation in progressive coalitions to efforts to withdraw their

40 As Ursinus College Professor of Politics Jonathan Marks quips, "Often, when someone in BDS complains about being silenced, they do it from behind a podium at a college or university. About their silencing, they can't say enough." Marks, *Let's Be Reasonable*, p. 156.

41 Einat Wilf and Oren Gross, "Jews Without Israel," *Tablet Magazine*, August 17, 2020 at <https://www.tabletmag.com/sections/israel-middle-east/articles/american-jews-zionism-wilf-gross>.

42 Anti-Israel activism on U.S. campuses tends to be concentrated geographically. For example, East and West Coast schools and Ivy League universities experienced higher rates of anti-Israel activity during the 2018 to 2019 academic year than did colleges and universities in other parts of the country. See Aaron Bandler, "Report Shows Increase in BDS Campaigns, Disruptions on College Campuses," *Jewish Journal*, November 5, 2019 at <https://jewishjournal.com/news/united-states/306677/report-shows-increase-in-bds-campaigns-disruptions-on-college-campuses/>.

own universities from study abroad and exchange relationships with Israeli academic institutions. New campus campaigns seek to discredit major Jewish American organizations and anti-Israel student activists are today proud to deny recognition to pro-Israel student organizations.⁴³ Meanwhile, pro-BDS faculty refuse to write letters of recommendation for students wishing to study at Israeli universities. Moreover, at the faculty level, virulently anti-Israel propaganda continues to be published and taught as credible scholarship. Wild accusations, such as the claim that Israel harvests the organs of Palestinians and intentionally stunts the growth of Palestinian children, are published by respected university presses, and guest lectures and conferences devoted largely to demonizing Zionists, Israelis, and even, by extension, Jews are promoted and endorsed at major research universities.⁴⁴

It is also increasingly the case that, at least in certain disciplines, faculty are starting to hide their pro-Israel viewpoints in order to succeed professionally. Cases of faculty members being intimidated and harassed, or even denied opportunities for professional advancement because they are Israeli or perceived to be sympathetic to Israel, are beginning to accumulate. In a new book, Cary Nelson interviews an Israeli scholar who notes that she sometimes omits “Cohen” from her hyphenated last name and refrains from identifying her university or country when submitting manuscripts or proposals to scholarly conferences: “That is what the BDS movement has driven us to do if we want to sustain our careers.”⁴⁵ These are worrisome trends. In many of these instances, Jewish and Zionist students, faculty, and staff end up feeling isolated and marginalized. For example, a group of student leaders of Hillel and Chabad chapters at the University of Minnesota recently wrote, “it is not uncommon for Jewish students to be aggressively questioned on the basis of their religious beliefs and ostracized

43 In 2018, a coalition of student groups at New York University agreed not to interact with or co-sponsor events with pro-Israel clubs on the campus. See Shiri Moshe, “50 New York University Groups Pledge to Boycott Zionist Student Clubs, All Israeli Goods,” *The Algemeiner*, April 11, 2018, <https://www.algemeiner.com/2018/04/11/50-new-york-university-groups-pledge-to-boycott-zionist-student-clubs-all-israeli-goods/>. An April 2018 incident at New York’s Stony Brook University, involving a Students for Justice in Palestine (SJP) protest of a Hillel-sponsored Israel Independence Day event, was another disturbing example of this trend. Comparing their Jewish Zionist peers to “Nazis, white nationalist and KKK members,” the campus SJP chapter stated that their views and identities should not be respected or accepted. SJP members further called for the removal of Hillel: “We want Zionism off this campus, so we want Hillel off this campus. What we want is a proper Jewish organization that allows Jews to express their faith, have sabbath—everything like that, that are not Zionist, that doesn’t support Israel.” See Gary Ghayrat and Mike Adams, “Anti-Zionist Activists Protest Israeli Independence Day Celebration,” *The Statesman*, April 22, 2018, <https://www.sbstatesman.com/2018/04/22/anti-zionist-activists-protest-israeli-independence-day-celebration/>; Jewish Telegraphic Agency, “Stony Brook University’s Muslim Chaplain Under Fire from Pro-Palestinian Students for Defending Campus Hillel,” JTA, May 8, 2018, <https://www.jta.org/2018/05/08/united-states/stony-brook-universitys-muslim-chaplain-fire-pro-palestinian-students-defending-campus-hillel>.

44 Cary Nelson, “The Devil’s Intersectionality: Contemporary Cloaked Antisemitic Antisemitism,” *The Journal of Contemporary Antisemitism*, Vol. 2, No. 2 (Fall 2019): 1–10; David Mikics, “Ivory Tower Bigots,” *Tablet*, October 16, 2018 at <https://www.tabletmag.com/sections/arts-letters/articles/ivory-tower-bigots>.

45 Cary Nelson, *Israel Denial: Anti-Zionism, Anti-Semitism, & The Faculty Campaign Against the Jewish State* (Academic Engagement Network and Indiana University Press, 2019), p. 37. In *Anti-Zionism on Campus*, a number of U.S.-based faculty describe being subjected to smear campaigns after voicing support for Israel. A year-long “public shaming” that Andrew Pessin, a tenured philosophy professor at Connecticut College, faced after he wrote a social media post harshly critical of Hamas offers a cautionary tale in Richard Landes, editor, *Salem on the Thames: Moral Panic, Anti-Zionism and the Triumph of Hate Speech at Connecticut College* (Boston: Academic Studies Press, 2020). For a review, see Elliot Kaufman, “We Found Our Outrage,” *Jewish Review of Books* (Summer 2020) at <https://jewishreviewofbooks.com/articles/7903/we-found-our-outrage/>.

from social groups. Many of our peers hide away Jewish identifiers like their Star of David or yarmulke, a skull cap, to escape the inevitable harassment.”⁴⁶

One of the specific challenges in this campus landscape is that many administrators and staff of Student Affairs, Equity, Diversity, and Inclusion and related offices often do not see the needs of Jewish students as directly within their primary purview. There are also ideological blinders and a lack of awareness within the professional culture of some of these offices that impede responsiveness to Jewish and pro-Israel student perspectives and concerns. Administrators too often see no need, or are reluctant, to develop and implement the policies, programs, and antisemitism awareness training necessary to address these concerns. The issues raised by these new developments are also complex for faculty, who are struggling to uphold the bedrock principles of academic freedom and campus free speech while also seeking to support students who are buffeted by the rise of antisemitic incidents and concerted attacks on their Jewish and Zionist identities. As discussed further in chapter 8 of this *Guide*, the impact on Jewish faculty and students and on the larger Jewish community is real and palpable.

A FINAL WORD

Israel is the Jewish homeland, where the Jewish people first established nationhood in pre-antiquity. It is the site, too, of a continuous Jewish presence for over three millennia. Israel has every right to be considered a legitimate member of the international community. Furthermore, the vast majority of American Jews continue to feel strongly attached to Israel. For most, Zionism is considered an integral component of their Judaism. On campus, Jews have every right to defend Israel and to express the Zionist aspects of their faith identities. Historic Palestine is also the homeland of a self-conscious Palestinian national movement which, in 1948, suffered a deep loss during which hundreds of thousands of people were displaced and became refugees. (An even greater number of Jews in surrounding Muslim-majority nations were displaced after Israel’s formation, as well.) Continued statelessness and the plight of Palestinian refugees, as well as an ongoing state of belligerency in the region, continues to feed a sense of despair and hopelessness. On campus, supporters of the Palestinian cause have every right to voice criticisms of Israeli policy and to advocate for Palestine.

In speaking out against BDS, university leaders and faculty need not wade into a contentious geopolitical debate, nor should they feel compelled to pick sides between two competing national movements with legitimate claims for sovereignty and self-determination.⁴⁷ As Kenneth Waltzer and Miriam F. Elman have recently noted, the main responsibility of chancellors and presidents “is not to reform the world, let alone the Middle East; it is to maintain and support the conditions for open inquiry on...campuses so that students and faculty can benefit from a wide range of educational opportunities around the world.”⁴⁸ That said, university leaders

46 Abby Flekier et al., “Opinion: For the Upcoming Campus Referendum, Vote ‘Yes’ on #1 to Fight Antisemitism,” *The Minnesota Daily*, March 20, 2021, <https://mndaily.com/266615/opinion/opinion-for-the-upcoming-campus-referendum-vote-yes-on-1-to-fight-antisemitism/>.

47 Many scholarly studies of the Arab-Israeli conflict recognize the legitimacy of both Israeli/Jewish and Palestinian/Arab claims. See, e.g., Paul Sham, Walid Salem, and Benjamin Pogrund, eds., *Shared Histories: A Palestinian-Israeli Dialogue* (New York: Routledge, 2005); Alan Dowty, *Israel/Palestine* (Massachusetts: Polity Press, 2005, and 4th edition 2017); Neil Caplan, *The Israeli-Palestinian Conflict: Contested Histories*, 2nd edition (New York: Wiley-Blackwell, 2019); and Rachel S. Harris, editor, *Teaching the Arab-Israeli Conflict* (Detroit: Wayne State University Press, 2019).

48 Kenneth Waltzer and Miriam F. Elman, “How Cal faculty who support Israel boycott get it wrong,” *J Weekly: The Jewish News of Northern California*, March 4, 2019 at <https://www.jweekly.com/2019/03/04/how-cal-faculty-who-support-israel-boycott-get-it-wrong/>.

can and should exercise their own speech to offer their thoughts on alternative, more constructive means of engaging on controversial and contentious topics such as the Israeli-Palestinian conflict.

CHAPTER 3. ANTISEMITISM AND ANTI-ZIONISM

RAEEFA Z. SHAMS

Antisemitism is a serious problem on American campuses, with diverse and overlapping origins. Sometimes, anti-Jewish tropes are used in campaigns against Israel or Zionism and are linked to the political left. At other times, they may carry racial or religious overtones and are connected to the political right. AEN believes that when antisemitism is incorporated into campus discourse, it must be repudiated swiftly and forcefully by university leaders and by the campus community. However, we also believe that not all speech that targets Israel or Jews, even if highly offensive, is necessarily antisemitic. Like other issues that affect minority groups, there are instances of straightforward and obvious bias or hatred and other incidents that are less clear and more difficult to assess.

Some antisemitic incidents are easy to recognize. When there are anti-Jewish attacks that emanate from the political right, such as when swastikas are painted on university property or a student is openly harassed for Jewish religious practices, almost everyone—students, faculty, and administrators—understands the issue and the need for appropriate action. Attacks from the political left often require navigating the intersection between antisemitism and anti-Zionism. Since AEN regularly calls on university leaders to respond actively to and speak out against antisemitism, we believe it is essential to provide guidance in identifying antisemitic forms of anti-Zionism.¹

USE OF CLASSIC ANTISEMITIC TROPES

One way in which anti-Zionism and antisemitism often overlap is when anti-Israel speech incorporates images, themes, language, and frameworks that echo earlier, more classical expressions of anti-Jewish animosity. The following are some illustrative examples:

1 This section uses the term “anti-Zionism” to broadly mean virulent and hostile anti-Israel rhetoric, including, but not limited to, the denial of Israel’s right to exist as a nation-state and the Jewish people’s right to self-determination. While the term in its historical (and literal) sense may mean opposition to Israel’s existence, many critiques of Israel that do not explicitly deny Israel’s right to exist may still incorporate the antisemitic tropes and canards discussed in this essay. This is particularly true with regard to many forms of anti-Israel activism that occur on U.S. college and university campuses.

- Representations, images, and depictions clearly derived from the long history of antisemitism, such as the Jew as an insect, a hook-nosed usurer, a devilish horned figure, a figure guilty of the deicide, a killer of children, or a grasping figure with designs on the globe.
- Mystical claims or classical tropes that depict “the Jews” as an all-powerful hidden force that acts as a collective to manipulate states and economies and whose representatives whisper in the ears of state leaders in pursuit of global control.
- Allegations of dual loyalty, such as when questions are raised about the fitness of Jewish individuals or those affiliated with Jewish community institutions to serve in positions of influence because they will not be able to act objectively on issues concerning Israel and will put allegiance to the Jews before any other obligations.
- Insistence that all Jews, including those outside of Israel, can be considered “fair game” as part of attacks on Israel and its government. The presumption is that there is no such thing as an individual Jew; there are only members of the Jewish collective, and all are guilty.
- Describing Jews and Israel as symbolic of some greater societal injustice, such as when Jews are described as responsible for the evils of the trans-Atlantic slave trade or when Israel is held responsible for racism within the United States (see information about the “Deadly Exchange” campaign, pp. 50-54). Similarly, when Israel alone is seen as the paradigm of a racist, immoral, and oppressive state, and its challenges and faults, even those faced by other nations, are seen as uniquely wicked.²

IMPLIED VIOLENCE, DOUBLE STANDARDS, AND FALSE ACCUSATIONS

The following are selected examples of anti-Zionist and anti-Israel rhetoric that may be considered antisemitic due to their logical implications:

- When anti-Zionist students march through campus chanting “From the river to the sea, Palestine will be free,” or “Intifada, intifada, we support the intifada,” they may be engaging in free speech, but it should be clear that the content of their speech is the eradication of an entire country and the violent murder of its citizens.
- Similarly, when adherents of anti-Zionism support the right of all nations to self-determination and sovereignty except the State of Israel, their message is that the Jews alone are a people who do not enjoy such a right.
- When anti-Zionists accuse those who express concerns about antisemitism of raising the issue in bad faith to silence criticism of Israel, they are imputing to Jews malignant and dishonest intentions in even raising those concerns.
- When comparisons are made between the actions of the Jewish State and the Nazis, this is also free speech. But this abhorrent equation (termed “Holocaust inversion”) is not only empirically incorrect but also minimizes and relativizes Nazi crimes against the Jewish people, thus reflecting an affront toward Holocaust survivors and to the memories of those who perished in the Holocaust.³

2 These examples are adapted from AEN’s 2017 *Guide and Resource Book for Faculty*.

3 Ibid.

GUIDANCE ON UNDERSTANDING ANTISEMITISM AND ANTI-ZIONISM FROM GOVERNMENTAL SOURCES

U.S. and international governmental bodies provide considerable guidance regarding when anti-Zionist or anti-Israel sentiment may cross over into antisemitism:

In June 2010, the U.S. Department of State released a “Working Definition of [Antisemitism],” which included examples of how antisemitism may manifest itself with regard to the State of Israel. These examples were classified into categories that ultimately became known as the “3 Ds”:

Demonization:

- Using the symbols and images associated with classic [antisemitism] to characterize Israel or Israelis
- Drawing comparisons of contemporary Israeli policy to that of the Nazis
- Blaming Israel for all inter-religious or political tensions

Double Standards:

- Applying double standards by requiring of it a behavior not expected or demanded of any other democratic nation
- Multilateral organizations focusing on Israel only for peace or human rights investigations

Delegitimization:

- Denying the Jewish people their right to self-determination, and denying Israel the right to exist

Despite the inclusion of these examples, the Working Definition explicitly noted that “criticism of Israel similar to that leveled against any other country cannot be regarded as [antisemitic].”⁴

The “3 Ds” had previously been outlined most prominently by Natan Sharansky, the Soviet dissident-turned-Israeli politician, in a 2004 essay for the *Jewish Political Studies Review*. It is important to note that this essay was written at a time of rising antisemitism in Europe and elsewhere, much of it under the guise of opposition to Israeli government policies.

I believe that we can apply a simple test—I call it the “3D” test—to help us distinguish legitimate criticism of Israel from anti-Semitism.

The first “D” is the test of demonization. When the Jewish state is being demonized; when Israel’s actions are blown out of all sensible proportion; when comparisons are made between Israelis and Nazis and between Palestinian refugee camps and Auschwitz—this is anti-Semitism, not legitimate criticism of Israel.

The second “D” is the test of double standards. When criticism of Israel is applied selectively; when Israel is singled out by the United Nations for human rights abuses while the behavior of known and major abusers, such as China, Iran, Cuba, and Syria, is ignored; when Israel’s Magen David Adom, alone among the world’s ambulance services, is denied admission to the International Red Cross—this is anti-Semitism.

4 U.S. Department of State, “Working Definition of Anti-semitism by the European Monitoring Center on Racism and Xenophobia,” June 2010 at <https://2009-2017.state.gov/documents/organization/156684.pdf>.

The third “D” is the test of delegitimization: when Israel’s fundamental right to exist is denied—alone among all peoples in the world—this too is anti-Semitism.⁵

In May 2016, the International Holocaust Remembrance Alliance (IHRA) decided during an annual plenary in Bucharest, Romania to adopt the following non-legally binding working definition of antisemitism: “Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.”

While the IHRA plenary determined that, similar to the State Department guidelines, “criticism of Israel similar to that leveled against any other country cannot be regarded as antisemitic,” it did highlight the following examples of sentiment or action against the State of Israel as illustrations of contemporary antisemitism:

- Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust.
- Accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations.
- Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavor.
- Applying double standards by requiring of it a behavior not expected or demanded of any other democratic nation.
- Using the symbols and images associated with classic antisemitism (e.g., claims of Jews killing Jesus or blood libel) to characterize Israel or Israelis.
- Drawing comparisons of contemporary Israeli policy to that of the Nazis.
- Holding Jews collectively responsible for actions of the state of Israel.^{6,7}

The IHRA working definition has gained considerable momentum in recent years, with numerous countries, international organizations, and academic institutions officially adopting or endorsing it.⁸ Within the United States, there is a widespread consensus among mainstream Jewish community organizations that the IHRA definition is an important educational tool—in January 2021, the Conference of Presidents of Major American Jewish Organizations, an umbrella group of Jewish organizations, announced that 51 of its 53 members have adopted the IHRA definition.⁹ There is some disagreement with regard to attempts to codify the IHRA definition within federal law—while the leadership of the Conference of Presidents signed on to a letter to President Joe Biden advocating that the definition be used in adjudicating civil rights complaints, some

5 Natan Sharansky, “3D Test of Anti-Semitism: Demonization, Double Standards, Delegitimization,” *Jewish Political Studies Review* 16:3-4 (Fall 2004) at <https://www.jcpa.org/phases/phases-sharansky-f04.htm>

6 International Holocaust Remembrance Alliance, “Working Definition of Antisemitism,” at <https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-antisemitism>

7 See also the European Commission’s “Handbook for the practical use of the IHRA Working Definition of Antisemitism,” November 2020, at https://report-antisemitism.de/documents/IHRADefinition_Handbook.pdf

8 International Holocaust Remembrance Alliance, “Working Definition of Antisemitism.”

9 Ben Sales, “A major American Jewish coalition adopted the IHRA definition of anti-Semitism. What that means may vary for its members,” *Jewish Telegraphic Agency*, January 26, 2021, at <https://www.jta.org/2021/01/26/united-states/major-american-jewish-coalition-adopts-ihra-definition-of-anti-semitism-what-that-means-may-vary-for-its-members>

progressive groups have argued that “the effort to enshrine [the definition] in domestic law and institutional policy... risks wrongly equating what may be legitimate activities with antisemitism.”¹⁰ In February 2021, a U.S. State Department spokesperson announced that the Biden administration “embraces and champions” the IHRA definition, calling it “a critically important tool to help the public and government at all levels at home and around the world recognize traditional and contemporary forms of anti-Semitism when they encounter them.”¹¹

Efforts to adopt the IHRA definition of antisemitism have reached college campuses. Many pro-Israel student organizations have developed and intensified campaigns to encourage the adoption of the IHRA definition. Several student governments have endorsed the definition in resolutions or referenda, while others are in the process of debating such an endorsement.¹²

Of course, these decisions have faced significant pushback from detractors, who argue that the IHRA definition, if adopted in an official form, may threaten free speech and academic freedom for students, faculty, and others. Some critics of the IHRA definition have even developed their own competing definitions of antisemitism. The Jerusalem Declaration on Antisemitism declared that “Antisemitism is discrimination, prejudice, hostility, or violence against Jews as Jews (or Jewish institutions as Jewish)” and included guidelines for when critiques of Israel could be considered antisemitic. Significantly, this definition did not include “criticizing or opposing Zionism as a form of nationalism” as inherently antisemitic.¹³ Similarly, the Nexus Task Force’s Definition of Antisemitism stated that “opposition to Zionism and/or Israel does not necessarily reflect specific anti-Jewish animus nor purposefully lead to antisemitic behaviors and conditions.”¹⁴

In the face of these recent attacks, supporters of the IHRA definition have developed new arguments in its defense. In April 2021, over 400 academics and intellectuals signed a letter in support of the definition, arguing that anti-Zionism is central to contemporary antisemitism:

It marks out the Jewish state as uniquely demonic, deserving of boycott and opprobrium. In a world full of states and national movements, it calls for the dismantling and ultimately violent destruction of the State of Israel. This antisemitism justifies the harassment, exclusion and ostracism of Israelis and Jews worldwide. It continues centuries old traditions of boycotting, rejecting and shunning Jews.¹⁵

In the *Times of Israel*, Jeffrey Herf, Professor of History at the University of Maryland, focused his critique on the Jerusalem Declaration:

10 Ibid.

11 Jacob Magid, “Biden admin ‘embraces’ IHRA anti-Semitism definition shunned by progressives,” *The Times of Israel*, February 2, 2021, at <https://www.timesofisrael.com/biden-admin-embraces-ihra-anti-semitism-definition-shunned-by-progressives/>

12 This is a full list of campuses that have adopted the IHRA definition or are in the process of debating it: <https://www.ajc.org/us-campus-adoption-of-the-working-definition>

13 “The Jerusalem Declaration on Antisemitism” at <https://jerusalemdeclaration.org/>

14 “The Nexus Document” at <https://israelandantisemitism.com/the-nexus-document/>

15 The Institute for the Study of Global Antisemitism and Policy (ISGAP), “ISGAP Scholars Support the IHRA Definition of Antisemitism,” at <https://isgap.org/post/2021/08/isgap-scholars-support-the-ihra-definition-of-antisemitism/>

The JDA authors do not include in their definition of antisemitism the key elements of the IHRA definition: blaming Israel for inventing the Holocaust, making accusations of dual loyalty, calling Israel a racist endeavor, applying double standards, applying symbols of classic antisemitism to Israel, or calling Israelis Nazis. That the JDA authors refrain from calling any of these examples possible forms of antisemitism is one of its significant shortcomings.¹⁶

In *Fathom Journal*, Cary Nelson, Professor Emeritus at the University of Illinois, Urbana-Champaign (UIUC), also delivered a rejoinder to the Jerusalem Declaration:

...for defining antisemitism in an excessively narrow way, uncomprehending of the ideological versions of antisemitism that are now so influential; for dissolving antisemitism into antiracism, discrediting and obliterating Jewish identity; for employing rhetorical strategies that repeatedly draw empty or banal distinctions to disclaim antisemitic content; for naively absolving the anti-Zionist industry of any probable freight of hatred; and for being marred by a conceptual confusion about, and an impoverished history of, antisemitism.”¹⁷

ANTI-ZIONISM AS AN ATTACK ON JEWISH IDENTITY

Another way in which anti-Zionism can cross the line into antisemitism is the effort to excise Zionism—or even a broader connection to Israel—from Jewish identity, and to harass, demean, and ostracize Jews who refuse to do so. In a May 2020 essay for the journal *Israel Affairs*, Alyza D. Lewin, President and General Counsel of the Louis D. Brandeis Center for Human Rights Under Law, explained how Zionism is a core component of Jewish identity. Detailing the centrality of the Land of Israel to Jewish theology, culture, customs, and immigration patterns, Lewin concludes that attempts to disassociate Jewish identity from Zionism or modern Israel are fundamentally antisemitic in nature:

Zionism is as integral a part of Jewish identity as observing the Jewish Sabbath or adhering to kosher dietary rules. Not all Jews observe Shabbat or eat only kosher food. Those Jews who do, express their Shabbat and kashrut observance in a myriad of ways. But all agree that those who observe the Jewish Sabbath and kosher dietary restrictions do so as an expression of their Judaism. Discriminating against Jewish Sabbath observers because they observe Shabbat or the Jewish holidays is universally recognized as antisemitism. Similarly, not all Jews are Zionists, and those who are, express their Zionism in multiple forms. For Zionist Jews, however, identifying with and expressing support for the Jewish homeland is an expression of their Judaism. Harassing, marginalizing or discriminating against Jews for expressing this Zionist component of their Jewish identity is similarly antisemitic...

...The pressure imposed on Jews today to shed their support for the Jewish homeland is a contemporary form of the historic demand that Jews discard their sense of Jewish peoplehood and yearning to return to Zion—essential elements of the Jews’ religious and ethnic identity.

16 Jeffrey Herf, “IHRA to JDA: Definitions of Antisemitism in 2021,” *Times of Israel*, April 9, 2021, at <https://blogs.timesofisrael.com/ihra-to-jda-definitions-of-antisemitism-in-2021/>

17 Cary Nelson, “Fathom Long Read | Accommodating the New Antisemitism: a Critique of ‘The Jerusalem Declaration,’” *Fathom Journal*, April 2021, at <https://fathomjournal.org/fathom-long-read-accommodating-the-new-antisemitism-a-critique-of-the-jerusalem-declaration/>

Judaism is unique. Adherents share both religious faith and membership in the Jewish nation (Am Yisrael). Demanding that Jews disavow any part of their Judaism as the price for admission into society is antisemitic.¹⁸

It is important to note here that identification with, and support for, Israel as a core component of Jewish identity is not merely a theological argument. Rather, it has been reinforced through multiple recent public opinion polls of American Jewry. A 2019 Gallup survey of American public opinion found that 95% of American Jews have a favorable opinion of Israel.¹⁹ A 2019 survey of American Jews conducted by the Mellman Group on behalf of the Ruderman Family Foundation found that 80% of respondents self-identified as “pro-Israel” (although 57% were critical of some or many government policies), and that 67% were very or somewhat emotionally connected to Israel.²⁰ In a 2020 survey of American Jews conducted by the American Jewish Committee, 85% of respondents viewed the statement “Israel has no right to exist” as antisemitic, and 80% believed that the BDS movement is antisemitic or has antisemitic supporters.²¹

Judea Pearl, Professor of Computer Science at University of California, Los Angeles (UCLA), expanded further on this concept in a 2019 speech at the fourth annual UCLA Jewish Graduation, emphasizing that “Zionophobia”—which he defines as “the irrational fear of a homeland for the Jewish people”—must be perceived as an assault on Jewish identity, similar to other bigotries:

Since Jews are a history-bonded collective, and Israel is the culmination of Jewish history, elementary high school algebra dictates that Zionism is an essential component of Jewish identity...Zionism should attain the same protection status as any religion, nationality, or identity-distinct collective, and anti-Zionism should become as despicable and condemnable as Islamophobia...or white supremacy.²²

As discussed earlier in this section, many scholars maintain that anti-Zionist speech crosses over into antisemitism when it overlaps with or invokes classical anti-Jewish stereotypes and tropes or when it erases the concept of Jewish peoplehood.²³ Shany Mor, an Associate Fellow at the Hannah Arendt Center at Bard College, argues that anti-Zionism—in its rhetoric, imagery, and conspiratorial frameworks—may often overlap or borrow from traditional antisemitism. However, he also finds that anti-Zionism as a stand-alone ideology,

18 Alyza D. Lewin, “Zionism—The integral component of Jewish identity that Jews are historically pressured to shed,” *Israel Affairs*, May 2020, at <https://brandeiscenter.com/wp-content/uploads/2020/08/Zionism-The-integral-component-of-Jewish-identity-that-Jews-are-historically-pressured-to-shed.pdf>

19 Frank Newport, “American Jews, Politics and Israel,” Gallup, August 27, 2019, at <https://news.gallup.com/opinion/polling-matters/265898/american-jews-politics-israel.aspx>

20 Ruderman Family Foundation, “American Jewry position survey,” December 2019, at https://rudermanfoundation.org/white_papers/american-jewry-survey/

21 American Jewish Committee, “The State of Antisemitism in America 2020: AJC’s Survey of American Jews,” at <https://www.ajc.org/AntisemitismReport2020/Survey-of-American-Jews>

22 Judea Pearl, “Inspiration and a Rallying Cry for Jewish Students and Graduates,” *The Algemeiner*, June 28, 2019, at <https://www.algemeiner.com/2019/06/28/inspiration-and-a-rallying-cry-for-jewish-students-and-graduates/>

23 See, e.g., “Anti-Zionism and Antisemitism” by Michael Walzer, in *Dissent* (<https://www.dissentmagazine.org/article/anti-zionism-and-anti-semitism>), and “In Defence of the IHRA Definition” by Bernard Harrison and Lesley Klaff, in *Fathom* (<https://fathomjournal.org/in-defence-of-the-ihra-definition/>).

regardless of its connections to traditional antisemitism, is also potent and insidious. In particular, its singling out of one nation for opprobrium and possible dissolution is dangerous and worthy of condemnation:

...This is the belief that Israel, and uniquely Israel, should not exist at all, that its birth was a crime, and that its continued existence is somehow an affront to all decent human values... This version of anti-Zionism is not so much an ideology as an organizing worldview that places Israel at the center of all that is evil. And as such, it is pernicious in its own way, even when it doesn't explicitly resort to the anti-Semitic triumvirate of blood, money, and power...

It is at the end of the day anti-Zionism, not Zionism, that needs to be able to make a case for itself. It is anti-Zionism, with its attribution of cosmic evil to one people and its yearning for the cleansing process of eliminating one political community, that should be treated as the pathological bigotry it is... Focusing only on the question of whether anti-Zionism is anti-Semitic or not is a barren exercise. Anti-Zionism may share many intellectual roots with anti-Semitism; it may constantly express itself with the anti-Semites' triangle of blood, conspiracy, and money. But understanding the roots of an intellectual phenomenon and making a normative assessment of it are not the same thing... Anti-Zionism should be assessed and judged on its own terms. And those terms are plenty pernicious, even if they could actually manage to steer clear of anti-Semitism."²⁴

ANTI-ZIONISM AND ANTISEMITISM ON COLLEGE CAMPUSES

What is the relevance of these definitions, distinctions, guidelines, contexts, and frameworks for stakeholders on college campuses, namely, senior university leaders and faculty members? Unfortunately, for many Jewish and Zionist students and faculty, these are not abstract academic arguments but rather practical realities that impact their personal, social, and professional lives. Indeed, on many campuses today, anti-Zionism is the most prominent form of antisemitism, a situation that has only been exacerbated by the remote learning and online platforms necessitated in the past year due to the COVID-19 pandemic.

A July 2020 report by the AMCHA Initiative, an organization that monitors antisemitism on college campuses, found that in the year 2019, there was a sharp decrease in classical antisemitic harassment (defined as "language or imagery containing anti-Jewish messages, or through actions targeting identifiably Jewish individuals or objects"), but a significant increase in anti-Israel incidents (defined as "language or imagery containing anti-Israel messages, or through actions targeting identifiably pro-Israel individuals or objects"). Anti-Jewish harassment identified as expressing classical antisemitism decreased 49%, from 203 incidents in 2018 to 104 in 2019, while Israel-related incidents increased 60%, from 121 incidents in 2018 to 192 in 2019.²⁵

The report also found that incidents of anti-Israel harassment were far more likely to take place through online (emails, social media, websites, etc.) or online-adaptable (web-based applications for speakers and events, such as Zoom) platforms, compared with incidents of classical antisemitism.²⁶ While the report measured events taking place in the year 2019, this finding is particularly relevant as of this writing, when,

24 Shany Mor, "Stop calling anti-Zionism anti-Semitic. It's morally repugnant in its own way." *The Forward*. August 4, 2020, at <https://forward.com/opinion/452057/stop-calling-anti-zionism-anti-semitic-its-morally-repugnant-in-its-own/>

25 AMCHA Initiative, "Understanding Campus Antisemitism in 2019 And Its Lessons for Pandemic and Post-Pandemic U.S. Campuses," July 2020, at <https://amchainitiative.org/wp-content/uploads/2020/07/Antisemitism-Report-2019.pdf>

26 Ibid.

due to the COVID-19 pandemic, most campuses have transitioned to conducting coursework, in addition to extracurricular student activities, through online platforms. Indeed, AEN has observed that far from resulting in a decrease in the harassment of Jewish and Zionist students, the shift to remote learning and activities in 2020 has only intensified such cases—Jewish and Zionist students have been targeted through social media postings and messages, attacked during virtual student government meetings, and have had their own meetings “Zoom-bombed” by detractors.

“The effect of these actions and types of rhetoric, individually and cumulatively, is a hostile campus climate for Jewish and Zionist students, where many do not feel comfortable expressing core components of their identity.”

A 2019 report by the Anti-Defamation League (ADL) provided further, more detailed examples on how radical anti-Israel activism on many U.S. college campuses often crossed the line into antisemitism.²⁷ These included speakers, social media posts, op-ed columns, t-shirts, flyers, and exhibits that conflated Zionism with societal ills such as racism, sexism, homophobia, and transphobia; calls for Zionist and pro-Israel students to be excluded from campus life; and even support for acts of violence and terror against Israelis.

The specific manifestations of antisemitic anti-Zionism on U.S. college campuses have been detailed throughout this guide, from disruptions of Israeli and pro-Israel speakers, to descriptions of the State of Israel as inherently racist and, thus, illegitimate, to the promotion of terrorism or other forms of violence against Israelis, to the exclusion of Jewish and Zionist students and/or organizations from self-identified progressive coalitions. The effect of these actions and types of rhetoric, individually and cumulatively, is a hostile campus climate for Jewish and Zionist students, where many do not feel comfortable expressing core components of their identity. While they may often be protected by the principles of free speech and academic freedom, they also necessitate a response from university leaders.

RESPONSES FROM UNIVERSITY LEADERS

Unfortunately, we have found that, in many cases, university administrators are not well versed in understanding the overlap between anti-Israel and anti-Zionist rhetoric and traditional antisemitism. They are also unaware of the types of responses and actions they can take to counteract its effects.

In April 2019, the Emory University chapter of Students for Justice in Palestine (SJP) posted mock eviction flyers on the doors of student residences and in common areas on and off the Emory University campus, with many Jewish students stating that they felt specifically targeted. The first official response came from Emory’s Interim Vice President for Campus Life and Vice Provost for Enrollment Management, who described the flyers as “posted as part of a communication campaign by a student organization concerned with human rights in the Middle East,” a one-sided categorization of SJP, and neglected to specify that Jewish students in particular had felt threatened by the flyers.²⁸ After additional outcry, Emory’s President, Claire E. Sterk, first

27 Anti-Defamation League, “Antisemitism and the Radical Anti-Israel Movement on U.S. Campuses, 2019,” at <https://www.adl.org/resources/reports/antisemitism-and-the-radical-anti-israel-movement-on-us-campuses-2019#antisemitic-themes>

28 Emory News Center, “Messages to the Emory community about the posting of flyers at Emory University,” April 12, 2019, at https://news.emory.edu/stories/2019/04/upress_sterk_statement/index.html

released a statement expressing Emory’s “commitments to creating an environment where all members of the community feel safe and protected and to upholding free speech and vigorous debate,” and its “[standing] firm against all forms of racism and intolerance” while not specifically mentioning the content of the flyer or the specific concerns about antisemitism.²⁹

Only in a second official response did President Sterk state that she was “deeply moved...by the personal pain shared by students—and by members of the wider Jewish community—who feel threatened, afraid, and angry.” Sterk’s second statement also acknowledged that:

What happens on the Emory campus does not happen in isolation. All of us are aware that anti-Semitic incidents are on the rise on college campuses and throughout American society today. It is in that context of escalating intolerance that our Jewish students found the mock-eviction notices—which incorrectly gave the impression that Emory endorsed the message on the flyers—on their doors. Although Jewish students were not singled out, they and their families justifiably felt targeted, given the world in which we live.³⁰

In Fall 2020, a guest lecturer at Cornell University gave a presentation titled “Palestine Is There, Where It Has Always Been,” in which she displayed photographs of the early pioneers of the State of Israel working the land, each with their faces blacked out, saying, “I can’t bear to look at them.” In addition, the caption for one of her photographs that advertised the lecture described “Jewish”—not “Israeli” or “Zionist” soldiers, blurring the lines between antisemitic and anti-Zionist/anti-Israel rhetoric.³¹ In response to this literal dehumanization of Jews in Israel, Cornell’s Architecture Department Chair posted a message acknowledging the controversial nature of the lecture and promising to organize a future discussion with different viewpoints. There was no further statement from Cornell’s administration.³²

Despite these negative examples, in recent years, there have also been a number of prominent cases of university leadership recognizing the harmful impact certain forms of extreme anti-Israel and anti-Zionist rhetoric can have on the university’s mission to foster a welcoming, respectful, and inclusive learning environment for all.

For example, in March 2016, the University of California Board of Regents approved the “Principles Against Intolerance,” a set of principles outlining “the academic and community values necessary to realize the University’s core mission,”³³ after numerous antisemitic incidents on UC campuses. The Final Report of the Regents Working Group on Principles Against Intolerance asserted that “Anti-Semitism, anti-Zionism and other forms of discrimination have no place at the University of California,” and acknowledged that “members

29 Ibid.

30 Ibid.

31 Tehilla Katz, “Erasure of Faces and Facts: Anti-Zionism at Cornell University,” *The Algemeiner*, January 7, 2021, at <https://www.algemeiner.com/2021/01/07/erasure-of-faces-and-facts-anti-zionism-at-cornell-university/>

32 Ibid.

33 UCLA Office of Equity, Diversity, and Inclusion. “Principles Against Intolerance.” <https://equity.ucla.edu/programs-resources/principles-against-intolerance/>

of the UC community [had] come forward with concerns that anti-Semitic stereotypes and tropes of Jewish people appear coded as political discourse about Israel and its policies.”³⁴

In an effort to balance the need to address antisemitism with the mission to protect free speech and academic freedom, the Principles called on university leaders “to challenge anti-Semitism and other forms of discrimination when and wherever they emerge within the University Community,” and stressed the importance of “educat[ing] members of the community to recognize, understand and avoid biases, stereotypes and prejudices,” while also stating clearly that “freedom of expression and freedom of inquiry are paramount in a public research university and form the bedrock on which our mission of discovery is founded.”³⁵

In December 2018, the Temple University Board of Trustees issued a unanimous statement of condemnation of remarks made by Temple professor Marc Lamont Hill at the United Nations, in particular his use of the phrase “free Palestine from the river to the sea,” a slogan sometimes used by Palestinian militant organizations and perceived by many to call for the destruction of the State of Israel.³⁶ While the statement recognized Hill’s First Amendment right to free speech and highlighted the fact that he was not acting as a representative of the university at the time of his comments, it also clearly and unequivocally condemned Hill’s remarks:

The members of the Board of Trustees of Temple University—Of The Commonwealth System of Higher Education, in exercise of their own Constitutionally-protected right as citizens to express their views, hereby state their disappointment, displeasure, and disagreement with Professor Hill’s comments, and reaffirm in the strongest possible terms the President’s condemnation of all anti-Semitic, racist or incendiary language, hate speech, calls to violence, or the disparagement of any person or persons based on religion, nationality, race, gender, sexual orientation or identity.”³⁷

In November 2020, following the filing of an official complaint with the Department of Education’s Office of Civil Rights, the University of Illinois, Urbana-Champaign administration released a joint statement with other stakeholders³⁸ condemning antisemitism, acknowledging the importance of Zionism to Jewish identity, and outlining various measures to help combat antisemitism on campus.³⁹

For many Jewish students, Zionism is an integral part of their identity and their ethnic and ancestral heritage. These students have the right to openly express identification with Israel.

34 University of California Board of Regents, “FINAL REPORT OF THE REGENTS WORKING GROUP ON PRINCIPLES AGAINST INTOLERANCE,” January 22, 2016, at <https://regents.universityofcalifornia.edu/regmeet/mar16/elattach.pdf>

35 Ibid.

36 Greta Anderson, “Temple to investigate if it will reprimand Marc Lamont Hill,” *The Temple News*, at <https://longform.temple-news.com/temple-to-investigate-if-it-will-reprimand-marc-lamont-hill/>

37 Kelly Brennan, “Temple Board of Trustees unanimously condemn Marc Lamont Hill’s UN speech,” *The Temple News*, December 11, 2018, at <https://temple-news.com/temple-board-of-trustees-unanimously-condemn-marc-lamont-hills-un-speech/>

38 The joint statement was also released by Jewish United Fund Chicago, Illini Hillel, Hillel International, Illini Chabad, Arnold & Porter, and the Louis D. Brandeis Center for Human Rights Under Law.

39 University of Illinois, Urbana-Champaign, Office of the Chancellor. “Joint Statement on Anti-Semitism,” November 16, 2020, at <https://blogs.illinois.edu/view/6231/1530347443>

The university will safeguard the abilities of these students, as well as all students, to participate in university-sponsored activities free from discrimination and harassment.

We deplore anti-Semitic incidents on campus, including those that demonize or delegitimize Jewish and pro-Israel students or compare them to Nazis. This subjects them to double standards that are not applied to others. All Jewish students, including those who identify with Israel or Jewish campus organizations, should be able to participate in campus activities aimed at fighting racism and achieving social justice.

All Jewish students should be able to proudly display religious emblems without fear of being targeted by their fellow students. All Jewish students should feel confident that if they encounter a swastika on campus, the university stands with them in rejecting symbols of hate. Anti-Semitism, anti-Semitic forms of anti-Zionism and other forms of discrimination have no place at this university. We will stand united against all forms of anti-Semitism.

The UIUC administration reinforced this commitment to recognizing and addressing all forms of antisemitism when, in February 2021, an Israeli flag hanging on a student apartment balcony was egged. In an email to the campus community, the Vice Chancellor for Diversity, Equity & Inclusion emphasized that “anonymous, targeted vandalism of expressions of personal and national identity create a climate of fear and distrust, threatening a sense of inclusion and safety that is foundational to our campus community” and that it is the campus’s responsibility “to speak together to say loudly and clearly that this behavior is antithetical to the values of our university, and that anti-Semitism in any form will not be tolerated.”⁴⁰

Other university leaders have made statements against BDS resolutions in student government, attacks on study abroad programs in Israel, and extreme attacks against Israel and/or pro-Israel students on their campus. While not all of these statements explicitly discuss the link between antisemitism and anti-Zionism, they do acknowledge the harmful effect of such actions on the campus climate and on Jewish and Zionist students in particular.⁴¹

CONCLUSION

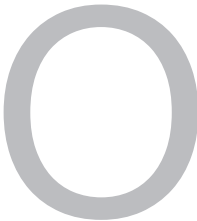
Effectively addressing the ongoing problem of antisemitism and anti-Zionism on college campuses today is a complex endeavor. It will require defining these terms, understanding their common manifestations on campus and in broader society, and accurately assessing their impact. It will necessitate protecting others’ rights to academic freedom and free speech while taking steps to improve the campus climate as a whole. It will likely involve collaboration with multiple stakeholder groups with a diverse range of perspectives. However, with enough commitment to exercise of moral leadership, university leaders will be able to meet the challenge of issuing statements and developing policies to help ensure that their campuses are diverse, inclusive places of learning, growth, and exploration for Jewish, Zionist, and *all* students.

40 Sean C. Garrick, UIUC Vice Chancellor for Diversity, Equity & Inclusion, “A Recent Incident of Targeted Vandalism Near Campus,” February 11, 2021, at <https://massmail.illinois.edu/massmail/1571361867.html>

41 For other constructive statements made by university leaders, please see Appendix 1a.

CHAPTER 4. INTERSECTIONALITY, SOCIAL JUSTICE AND ANTISEMITISM

MIRIAM F. ELMAN

n many American campuses, Jewish students are facing an increasingly hostile learning environment that includes being subjected to derogatory rhetoric and discourse. Jewish students who express their identities and beliefs are increasingly being belittled and demoralized in new pernicious ways and even, on some campuses, are denied access to full participation in campus life. Particularly troubling is that Jewish students who view Zionism as central to their identity and faith are becoming isolated from their peers and other student organizations and clubs, excluded from the causes that they care deeply about.¹ This kind of bullying, harassment, and ostracism is antithetical to the university mission and has a harmful impact on student well-being. University leaders—especially equity, diversity, and inclusion officials and staff—must address the campus climate for Jewish students while simultaneously responding to the needs and concerns of other groups and communities.

1 See Greta Anderson, “Anti-Semitism on the rise as a new semester starts,” *Inside Higher Ed*, September 9, 2020 at <https://www.insidehighered.com/news/2020/09/09/anti-semitism-rise-new-semester-starts>; and Blake Flayton, “The Hate That Can’t Be Contained,” *Tablet Magazine*, November 25, 2020 at <https://www.tabletmag.com/sections/news/articles/hate-cant-be-contained>. One recent example occurred at the University of Illinois–Urbana Champaign’s College of Law, where a new registered student organization includes Zionism among the deplorable and heinous “systems of oppression” that it seeks to eradicate. See Bar None’s mission statement at <https://law.illinois.edu/student-life/student-organizations/>.

INTERSECTIONALITY²

Anti-Israel activists on campus often invoke the logic of “intersectionality,” a prominent paradigm that emphasizes purported linkages among different forms of oppression. As a theoretical framework, intersectionality was originally put forward to explain how different types of discrimination—for instance, racism and sexism in the case of black women in the United States—impact individual identity in complicated ways. The original concept helpfully offered an understanding of identity as complex, with individuals capable of being members of more than one historically marginalized or victimized group. It also enabled a better understanding of how discrimination could occur on the basis of the intersection of two or more protected categories—such as race and gender. Such a conceptualization was not inherently anti-Jewish. For example, the original notion of intersectionality facilitated a nuanced approach to gay Jewish life. Yet, on many campuses today, intersectionality has been recast less as a theoretical framework for the analysis of discrimination and an individual person’s identity and more as a method (or sociological and political concept) for group activism. Intersectionality is generally invoked as a call to forge allyships between and among select identity groups that perceive themselves as aggrieved and that would otherwise not share much in common. This often results in a virtual “party line” on some campuses, dictating not only the causes that students should support but also the groups on campus that should be offered a sympathetic hearing. The danger in this reformulated perspective is that intersectionality becomes simply a means for repackaging antisemitic tropes and canards that hold Jews (and the Jewish state) responsible for societal ills.

“Intersectionality”—a theoretical perspective that originally emphasized the compelling idea that individuals can hold multiple and distinct identities such that they “intersect”—has morphed into a trendy concept for building alliances. To be sure, the academic pedigree of the intersectionality paradigm makes it an easier sell for campus activists intent on building such coalitions. Elliot Kaufman suggests that, on many U.S. campuses, intersectionality has become a model for political organizing. Disparate groups are connected to each other in terms of shared victimization by a common oppressor. Thus, anti-racists must champion *every* progressive cause since they are all connected and “different types of bigotry combine to threaten vulnerable people at their junctions.” As Kaufman writes,

To engage their diverse coalitions, intersectional movements must exaggerate the unity and malevolence of its enemies. The unity helps show anti-sexual-assault activists, for example, that Israeli “apartheid” should be their issue, too, because of how it props up the same system of domination that inflicts violence on Palestinian and other women. The result is a picture of a uniquely wicked Jewish state lurking behind the world’s evils.³

Student leaders from minority communities can easily “deliver votes” to intersectional coalitions because defection is almost unthinkable, no matter how unrelated the issues. In this environment, Jews are often rendered invisible insofar as they tend to be conceptualized as “white” and “privileged.” Thus, they can be characterized as having no relevant concerns regarding the systemic bias that social justice campaigns are

2 This section draws on AEN’s *Academic Freedom, Freedom of Expression, and the BDS Challenge: A Guide and Resource Book for Faculty* (September, 2017), pp. 39–40.

3 Elliot Kaufman, “The Campus Intersectionality Craze,” *Commentary*, June 2018 at <https://www.commentarymagazine.com/articles/campus-intersectionality-craze/>.

meant to oppose and rectify.⁴ Pamela Paresky puts it well: “In the critical social justice paradigm, Jews, who have never been seen as white by those for whom being white is a moral good, are now seen as white by those for whom whiteness is an unmitigated evil.”⁵

The intersectionality paradigm and the way it informs currently influential perspectives, such as critical race theory, deserves more extensive discussion than we can provide here.⁶ However, for our purposes, the salient point is that within intersectional discourse the circumstances in the Middle East and the situation facing the Palestinians is frequently linked to a host of unrelated U.S. domestic causes and concerns, including the struggles of people of color (such as the Black Lives Matter movement), LGBTQ (lesbian, gay, bisexual, transgender and queer or questioning) and women’s rights, immigration, police and prison reform, and fossil fuel divestment, among others. The objective is to increase the amount of support and influence aligned behind the anti-Israel movement and to mobilize the student body against Israel and its supporters through savvy coalition building around issues that students care a great deal about. Consequently, Jewish students, the majority of whom self-identify as Zionists, including those who speak out for a two-state solution and support Palestinian self-determination, can find themselves treated as *persona non grata* in many progressive circles on campus.

A related issue is that some Jews are barred from participation in intersectional coalitions because of the commonly held misperception that labels all Jews as privileged. Jews who, as individuals, choose to enter into progressive work on campus appreciating their position in a white, nominally Christian, majority will often be welcomed. However, Jews who see themselves and the Jewish people differently—as non-white, and as a distinctive minority people with a history of oppression and as holding particularistic identities shaped and nurtured by participation in Jewish communal and institutional life, such as in Hillel and other Jewish groups on campus—may or may not be accepted.

“For many Jews, to be regarded as white and privileged requires that they disavow their Jewish identity in a way that no other minority identity group on campus is asked to do. Identifying Jews with ‘whiteness’ and a structurally privileged, exploitative majority society can also result in the confirmation of antisemitic stereotypes and conspiracies, such as the excessive influence of Jews in business, politics, and the media.”

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- 4 As Rabbi David Wolpe recently remarked, “Jews occupy a strange middle space: a prominent, accomplished people who are also the subjects of serious and sustained threat. Jews do not fit neatly into social justice binaries.” See “Social Justice for Moderns,” *Sapir: A Journal of Jewish Conversations*, Vol. 1 (Spring 2021) at <https://sapirjournal.org/social-justice/2021/05/social-justice-for-moderns/>.
- 5 Pamela Paresky, “Critical Race Theory and the ‘Hyper-White’ Jew,” *Sapir: A Journal of Jewish Conversations*, Vol. 1 (Spring 2021) at <https://sapirjournal.org/social-justice/2021/05/critical-race-theory-and-the-hyper-white-jew/>.
- 6 For an extended discussion, see *ibid.* and James Lindsay, “Critical Race Theory’s Jewish Problem,” *New Discourses*, October 22, 2020 at <https://newdiscourses.com/2020/10/critical-race-theorys-jewish-problem/>. See also Tammi Rossman-Benjamin, “The Anti-Zionism of Critical Ethnic Studies,” *Jewish Journal*, September 25, 2020 at <https://jewishjournal.com/commentary/322152/the-anti-zionism-of-critical-ethnic-studies/> and John-Paul Pagano, “Anti-Racism Erases Anti-Semitism,” *Tablet Magazine*, June 21, 2016 at <https://www.tabletmag.com/sections/news/articles/anti-racism-erases-anti-semitism>.

Moreover, the claim that Jews are the beneficiaries of “white privilege” will be off-putting and offensive to many Jewish students since antisemitism and anti-black racism are both central features of white supremacist ideology.⁷ Casting Jews as white and privileged can also feel like an erasure of Jewish history and the lived experiences of American Jews, including their significant contributions to the fight for racial justice.⁸ For many Jews, to be regarded as white and privileged requires that they disavow their Jewish identity in a way that no other minority identity group on campus is asked to do. Identifying Jews with “whiteness” and a structurally privileged, exploitative majority society can also result in the confirmation of antisemitic stereotypes and conspiracies, such as the excessive influence of Jews in business, politics, and the media.⁹

It is important to note that this can extend beyond peer-on-peer personal insult and have an impact on educational programming and opportunities. In spring 2016, for instance, student pressure led to the cancellation of an event at Brown University with black transgender activist Janet Mock because the event was being sponsored by the campus Hillel chapter. The event had no connection to Israel or the Middle East conflict, but the participation of Hillel was enough for some students, led by the Brown chapter of Students for Justice in Palestine, to try and scuttle it. Under pressure, Mock withdrew and the event was canceled.¹⁰

Since then, campus Hillel chapters have remained a frequent target. In 2018, at the State University of New York at Stony Brook, for example, the Students for Justice in Palestine (SJP) club demanded that the campus Hillel be replaced with a “proper” Jewish organization that would enable Jewish students to observe the holidays and Sabbath (by “lighting candles”) but not host any pro-Israel programming. When the school’s chaplain for the Muslim Students Association joined other faith leaders to call on SJP to disavow its “agenda of hate and alienation,” SJP accused her of “working with Zionists” and of being a traitor to the Palestinian cause.¹¹

On some campuses, the animus toward Israel is so great that activists have also been known to harass their peers who hope to promote neutrality on the issue of the Israeli-Palestinian conflict for the sake of encouraging tolerance, if not more collaborative relations, among student groups on campus. For example, in a

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- 7 See Eric K. Ward, “Skin in the Game: How Antisemitism Animates White Nationalism,” *The Public Eye*, June 29, 2017 at <https://www.politicalresearch.org/2017/06/29/skin-in-the-game-how-antisemitism-animates-white-nationalism>.
 - 8 Clay Risen, “In 1964, the Civil Rights Act Was Still a Dream. Then These Jewish Operatives Got to Work,” *Tablet Magazine*, March 28, 2014 at <https://www.tabletmag.com/sections/news/articles/1964-civil-rights-act>; and Jerome A. Chanes, “Jews and the Civil Rights Movement,” *JTA*, May 3, 2011 at <https://www.jta.org/2011/05/03/united-states/jews-and-the-civil-rights-movement>.
 - 9 Karin Stögner, “Intersectionality and Antisemitism—A New Approach,” *Fathom Journal*, May 2020 at <https://fathom-journal.org/intersectionality-and-antisemitism-a-new-approach/>.
 - 10 Emily Shire, “Brown Students Shut Down Trans Activist’s Speech—Because Israel,” *Daily Beast*, March 25, 2016 at <http://www.thedailybeast.com/articles/2016/03/25/brown-students-shut-down-trans-activist-s-speech-because-israel.html>.
 - 11 See Kenneth Waltzer, “From ‘intersectionality’ to the exclusion of Jewish students: BDS makes a worrying turn on US campuses,” *Fathom Journal*, July 2018. Also disturbing is the fact that a growing number of Hillel properties have been defaced and vandalized in recent years with pro-Palestinian and anti-Israel graffiti. See, e.g., Rob Golub, “Madison Hillel sign defaced,” *The Wisconsin Jewish Chronicle*, July 8, 2020 at <https://www.jewishchronicle.org/2020/07/08/madison-hillel-sign-defaced/>; Will Katcher and Kathrine Esten, “Graffiti found at UMass Hillel House on Israel’s Holocaust Remembrance Day,” *The Massachusetts Daily Collegian*, April 21, 2020 at <https://dailycollegian.com/2020/04/graffiti-found-at-umass-hillel-house-on-israels-holocaust-remembrance-day/>; Jeremy C. Fox, “Anti-Israel posters found at Tufts Hillel,” *The Boston Globe*, February 13, 2019 at <https://www.bostonglobe.com/metro/2019/02/13/anti-israel-posters-found-tufts-jewish-center/KbgClPbAHgwyUoL4iU9XXP/story.html>; and *JTA* Staff, “U of Oregon Hillel sign vandalized with pro-Palestinian message and obscenities,” *JTA*, July 10, 2018 at <https://www.jta.org/2018/07/10/united-states/u-oregon-hillel-sign-vandalized-pro-palestinian-message-obscenities>.

high-profile case at UCLA, Milan Chatterjee, a law student who was also the president of the Graduate Student Association, ultimately was forced to transfer to another university because he felt that the campus environment was “hostile and unsafe” and he had been “relentlessly attacked, bullied, and harassed by BDS-affiliated organizations and students.” Chatterjee, a Hindu Indian-American from California, also alleged that the university administration had been “non-responsive and unhelpful” when he reached out for guidance. He indicated that a confidential report on the proceedings was leaked to SJP and distributed electronically. In response, the administration did nothing to rebuke the group for violating Chatterjee’s right to privacy, and one administrator openly encouraged students to read the report.¹²

Students who support such rigid and stratified thinking do not seem to understand the illiberalism of their methods and tactics or the effects these purported hierarchies of oppression and victimhood can have on students outside the approved circle. This is especially ironic because many of the students who work to exclude Jewish and Zionist voices have themselves experienced the effects of being marginalized in relation to their own identities or beliefs. These types of issues have been graphically illustrated when, for example, students have tried to block individual Jewish peers from running for student government office or have raised questions about the fitness of specific Jewish students to represent others in office.¹³

THE PRESSURE ON JEWISH STUDENTS TO DISAVOW THEIR JEWISH IDENTITIES

Jewish students on many college and university campuses today face increasing pressures from their peers to publicly renounce their support for Israel. They are told, in effect, to “check their Zionism at the door” as the price of admission to participate in campus life, especially in progressive causes and campaigns. Zionism, in its most fundamental sense, is a quintessential progressive movement as it realized the national liberation of a historically persecuted people. Yet, today Zionism is often depicted on campus as a racist ideology (see chapter 3 in this *Guide*).¹⁴ Thus, to support Israel and to be a Zionist, by definition, makes one an oppressor—as well as

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- 12 Sam Kestenbaum, “Meet the Pro-Israel Student Leader Who Fled UCLA After Feud With BDS ‘Bullies’” *Forward*, September 2, 2016, <http://forward.com/news/349055/meet-the-pro-israel-student-leader-who-fled-ucla-after-feud-with-bds-bullies/>; Shiri Moshe, “UCLA Student Leader Leaves After Harassment; Says Jewish Peers ‘Have a Target on Their Back,’” *The Tower*, September 2, 2016, <http://www.thetower.org/3873-ucla-student-leader-leaves-after-harassment-says-jewish-peers-have-a-target-on-their-back/>. Chatterjee subsequently received help and support from the American Jewish Committee (AJC), which awarded him their “Campus Courage Award.”
- 13 For an earlier example, see Rachel Beyda’s experience at UCLA: <https://www.nytimes.com/2015/03/06/us/debate-on-a-jewish-student-at-ucla.html>. While the details behind the incident are disputed, Stanford student Molly Horwitz also alleged that she faced a similar experience: <https://www.nytimes.com/2015/04/15/us/student-coalition-at-stanford-confronts-allegations-of-anti-semitism.html>. A more recent example involved a University of Southern California student who was subjected to weeks of harassment by peers who believed that her Zionist identity should disqualify her from serving as vice president of the undergraduate student government. Amidst relentless calls for her impeachment, the student ultimately resigned from her position to protect her mental health and well-being. See Gabriel Greschler, “S.F. native resigns from USC student government over Israel views,” *JWeekly: The Jewish News of Northern California*, August 11, 2020, at <https://www.jweekly.com/2020/08/11/s-f-native-resigns-from-usc-student-government-over-israel-views/>; The Alliance for Academic Freedom, “Are You Now or Have You Ever Been a Zionist?” August 24, 2020 at <https://thirdnarrative.org/anti-zionism-antisemitism/are-you-now-or-have-you-ever-been-a-zionist/> and Rose Ritch, “I Was Harassed and Persecuted on Campus Just for Being a Zionist,” *Newsweek*, August 10, 2020, <https://www.newsweek.com/i-was-harassed-persecuted-campus-just-being-zionist-opinion-1523873>.
- 14 For more on Zionism, see Gil Troy, *The Zionist Ideas: Visions for the Jewish Homeland—Then, Now, Tomorrow* (Lincoln: University of Nebraska Press, 2018); Michael Brenner, “From Zionism to Zion,” in S. Ilan Troen and Rachel Fish, eds.,

a settler-colonialist, imperialist, an enabler of apartheid, pro-genocide, and even a racist, white supremacist on some campuses.¹⁵ As renowned human rights activist and former Soviet refusnik (dissident) Natan Sharansky recently put it:

Today there is an attempt to hijack the cause of human rights from Jews by so-called progressives...For the so-called progressives, all the world is the fight between “oppressors” and “oppressed”...Jews are guilty of belonging to the wrong state, the State of Israel, the wrong group. Jews are accused as a group and Israel is accused as a Jewish state. It is not the struggle for human rights, it is not the struggle for individual freedom.¹⁶

It is important to consider how such attitudes and perceptions about Israel and Zionism can negatively impact the educational and expressive rights of college students. Jewish students in recent years have described being deplatformed and effectively cast out of campus life, ostracized from activities and campaigns where they wished to join with their peers to advocate on behalf of causes such as police and prison reform; the protection of rights for women, LGBTQ individuals, and indigenous Native Americans; the Black Lives Matter movement; and the mitigation of global climate change.¹⁷

A widely reported case of this kind of shunning and exclusion happened in April 2018 at New York University (NYU), when 53 student organizations pledged in a written joint statement to boycott NYU’s two registered pro-Israel student groups, resolving not to co-sponsor any events with them.¹⁸ The student groups that signed the statement also pledged to boycott NYU’s own academic programs at Tel Aviv University as well as other Israeli academic institutions. Other recent examples include the following:

Essential Israel: Essays for the 21st Century (Bloomington: Indiana University Press, 2017), 40–61. For a brief overview, see Anti-Defamation League, “Zionism,” at <https://www.adl.org/resources/glossary-terms/zionism>.

- 15 See, e.g., Justine Murray, “Bias and bigotry on the Syracuse University campus,” *JNS*, July 15, 2020 at <https://www.jns.org/opinion/bias-and-bigotry-on-the-syracuse-university-campus/>; Tamar Zieve, “After ‘anti-fascist’ rally targets Zionists, U. of Illinois ‘welcomes’ Jews,” *The Jerusalem Post*, September 27, 2017 at <https://www.jpost.com/diaspora/after-anti-fascist-rally-targets-zionists-u-of-illinois-welcomes-jews-506069>. Central to left-wing antisemitic conspiracy theorizing is the notion that Israel is a white supremacist state that aims to “replace” the indigenous Palestinians who are often depicted as people of color. See Joel Finkelstein, “Antisemitic Disinformation: A Study of Online Dissemination of Anti-Jewish Conspiracy Theories,” *Network Contagion Research Institute* (December 15, 2020) at <https://networkcontagion.us/reports/antisemitic-disinformation-a-study-of-the-online-dissemination-of-anti-jewish-conspiracy-theories/>.
- 16 *Algemeiner* Staff, “Human Rights Icon Natan Sharansky Calls Out Progressives Who View Jews as ‘Oppressors,’” *The Algemeiner*, December 17, 2020 at <https://www.algemeiner.com/2020/12/17/human-rights-icon-natan-sharansky-calls-out-progressives-who-view-jews-as-oppressors/>. See also Sharon Goldman, “Jews Must Not Embrace Powerlessness: The danger of intersectionality,” *Commentary Magazine*, March 2019 at <https://www.commentarymagazine.com/articles/sharon-goldman/jews-must-not-embrace-powerlessness/>.
- 17 See, e.g., Blake Flayton, “On the Frontlines of Progressive Anti-Semitism,” *New York Times*, November 14, 2019 at <https://www.nytimes.com/2019/11/14/opinion/college-israel-anti-semitism.html>; Maddie Solomon, “How Liberal Jews Are Being Pushed Out on Campus,” *The Algemeiner*, June 13, 2019 at <https://www.algemeiner.com/2019/06/13/how-liberal-jews-are-being-pushed-out-on-campus/>; and William A. Jacobson, “How student activists turned anti-rape group into an anti-Israel group,” *Legal Insurrection*, December 10, 2015 at <https://legalinsurrection.com/2015/12/how-student-activists-turned-anti-rape-group-into-an-anti-israel-group/>.
- 18 *JNS* Staff, “Pro-Israel groups urge president of NYU to act on discriminatory statement,” *JNS*, August 21, 2018 at <https://www.jns.org/pro-israel-groups-urge-president-of-nyu-to-act-on-discriminatory-statement/>.

- In Fall 2019, a popular student campaign at Wesleyan University, committed to convincing the administration to divest from the fossil fuel industry, shifted its platform to require that those groups participating in the coalition also agree to pro-BDS divestment from Israel.¹⁹
- In May 2019, a pro-Israel student group, *Williams Initiative for Israel* (WIFI), had its application for Registered Student Organization status denied by a majority vote in the student council body on the grounds that WIFI's mission and programming would be offensive to Palestinian and Arab students.
- In September 2020, an anti-racist Instagram account curated by students of color at Mount Holyoke College—meant to be a platform for voicing concerns and ways for addressing inequities—declared its intention to take an “anti Zionist [sic] stance” and featured inflammatory posts targeting the Jewish student body.²⁰
- In November 2020, a University of Illinois–Urbana Champaign (UIUC) coalition of student organizations released a statement declaring that Zionists “actively advocate for white supremacy and racism” and that “Zionism, as a racist ideology, has no place in anti-racist student organizing.”²¹
- A December 2020 proposed student petition to protest the high cost of tuition at Columbia University also demanded a commitment to endorse the *Boycott, Divestment, and Sanctions* (BDS) movement against Israel.²²

Emory University Professor and member of AEN's Advisory Board Deborah E. Lipstadt, a historian known for her scholarship on the Holocaust and antisemitism, recently reflected on this growing ostracism of Jewish-Zionist students from campus life:

Most Jewish students on American campuses have not been subjected to overt acts of discrimination or verbal abuse. But many among them feel they have something to lose if they openly identify as Jews. If they are active in Hillel, the Jewish student organization, they may be informally barred from being active in progressive causes—for example, racial and LGBTQ equality, climate-change mitigation, and the fight against sexual assault. Those who want to be elected to student government are learning to scrub their résumés clean of any overtly Jewish or pro-Israel activities. They are not abandoning their Jewish identity; they are hiding it. They have become *Marranos*.²³

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- 19 Sasha Linden-Cohen, “WesDivest’s Intersectional Divestment Campaign Sparks Controversy in Wesleyan’s Climate Action Circles,” *The Wesleyan Argus*, December 6, 2019 at <http://wesleyanargus.com/2019/12/06/intersectional-divestment-campaign-sparks-controversy-in-sustainability-community/>.
- 20 Sonya Stephens, “Opposing all forms of prejudice and oppression,” Office of the President, Mount Holyoke, September 24, 2020 at <https://www.mtholyoke.edu/president/opposing-all-forms-prejudice-and-oppression>.
- 21 Ian Katsnelson, “A Retrospective Look of this Past Hanukkah,” *The Times of Israel*, December 27, 2020, at <https://blogs.timesofisrael.com/a-retrospective-look-of-this-past-hanukkah/>. In Fall 2020, a UIUC student government resolution in support of Black Lives Matter also included a BDS component.
- 22 Kevin Petersen and Phillip A. Ruddy, “The petition for a more democratic and transparent Columbia is neither democratic nor transparent,” *Columbia Spectator*, December 23, 2020 at <https://www.columbiaspectator.com/main/2020/12/23/the-petition-for-a-more-democratic-and-transparent-columbia-is-neither-democratic-nor-transparent/>.
- 23 Deborah Lipstadt, “Jews Are Going Underground,” *The Atlantic*, December 29, 2019 at <https://www.theatlantic.com/ideas/archive/2019/12/after-monsey-will-jews-go-underground/604219/>.

Alyza Lewin, a civil rights attorney and President of the Louis D. Brandeis Center for Human Rights Under Law, similarly points to the fact that Jewish students on campus increasingly feel that they must abandon their support for Israel lest they face harassment or exclusion from certain groups and clubs:

What may appear to be political jockeying...is in fact religious discrimination. When students on campus today wish to express this part of their Jewish identity, they encounter very deliberate and targeted efforts to isolate, intimidate, and demonize them.²⁴

THE DEADLY EXCHANGE CAMPAIGN

Anti-Israel propaganda on U.S. campuses has for some years focused on the “Ferguson to Palestine” meme, which draws a misleading equivalence between injustices facing black American citizens and Israel’s policies toward non-citizen Palestinians.²⁵ In the wake of the killing of George Floyd in Minneapolis police custody on May 25, 2020, this meme has gone into hyperdrive. Both on and off campus, with Floyd’s killing focusing public attention on longstanding issues of racial injustice and inequality, there have been concerted efforts to link Israel to U.S. police brutality and to heightened concerns for policing reform. To the detriment of both black and Jewish students, the Black Lives Matter (BLM) movement is being exploited by anti-Israel activists on some campuses to vilify Israel and its supporters. The movement is also being evoked to create inaccurate comparisons between American racism and the Israeli-Palestinian conflict. On other campuses, Jewish students are being ostracized and shunned from anti-racist and BLM activist circles on account of their Zionist identities and perceived attachment to Israel.²⁶

The increased focus on racial justice and police accountability amidst nationwide protests and unrest has also led to a significant uptick in efforts to promote the “Deadly Exchange” campaign, which falsely blames U.S.-Israel professional development programs for law enforcement officials, often organized by American-Jewish organizations such as the Anti-Defamation League (ADL) and American Jewish Committee (AJC), for policing misconduct against African Americans and other minorities. Events promoting the “Deadly Exchange” campaign were increasingly popping up on campuses across the country in 2019 and 2020. At the time of this writing, there have been many more such campus events nationally, organized virtually due to the COVID-19 pandemic.²⁷

On some campuses, Deadly Exchange has become a central leitmotif of anti-Israel activism. For example, a Deadly Exchange campaign involving dozens of campus clubs and spearheaded by the SJP chapter has been underway for several years at Tufts University. In December 2020, the coalition was successful in persuading

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- 24 Alyza D. Lewin, “Recognizing Anti-Zionism as an Attack on Jewish Identity,” *Catholic University Law Review*, Vol. 68, No. 4 (Fall 2019): 643.
- 25 For a recent critique of the effort to see Israel’s conflict with the Palestinians through the prism of U.S. race relations, see Einat Wilf, “How Not to Think About the Conflict,” *Sapir: A Journal of Jewish Conversations*, Vol. 1 (Spring 2021) at <https://sapirjournal.org/social-justice/2021/04/how-not-to-think-about-the-conflict/>.
- 26 For an overview of the BDS movement’s efforts to exploit racial tensions in the United States, see Dan Diker, “The Alignment of BDS and Black Lives Matter: Implications for Israel and Diaspora Jewry,” *Jerusalem Center for Public Affairs*, July 16, 2020 at <https://jcpa.org/article/the-alignment-of-bds-and-black-lives-matter-implications-for-israel-and-diaspora-jewry/>.
- 27 Miriam F. Elman, “The Intersectional, Antisemitic ‘Deadly Exchange’ Campaign Comes to Campus,” *The Algemeiner*, April 8, 2019 at <https://www.algemeiner.com/2019/04/08/the-intersectional-antisemitic-deadly-exchange-campaign-comes-to-campus/>.

the undergraduate student body to pass a referendum calling on the administration to apologize for sending the former Tufts police chief to an ADL-sponsored counterterrorism seminar in Israel in 2017, prohibiting campus police officers from attending similar exchange programs in the future, and preventing alums of such programs from being hired at the university. Following passage of the referendum, the Tufts Hillel chapter noted that, while it commended students for vigorously debating the nature of policing in America and on college campuses, the referendum was “more about vilifying Israel than addressing police reform in this country.” Further, the Tufts Hillel’s Executive Director and its Student President condemned the referendum as “particularly distressing” because it “forces students to denounce Israel or stand accused of endorsing militarized police”—a “misleading and unfair choice” for those students who are critical of militarized policing while also supportive of the State of Israel and “for whom Israel constitutes a core part of their identity.”²⁸

“For years, anti-Israel activists have been falsely blaming Israel for U.S. police shootings... However, what is particularly unique and concerning about the Deadly Exchange campaign is that it connects American Jews to this oppression of blacks, thus tapping into antisemitic tropes and canards by conceiving of Israel as a malevolent part of a wider Jewish conspiracy.”

The Deadly Exchange campaign alleges that five of the leading organizations of American Jewish life—the Anti-Defamation League (ADL), American Israel Public Affairs Committee (AIPAC), Jewish Institute for National Security Affairs (JINSA), American Jewish Committee (AJC), and Taglit Birthright Israel—are deliberately conspiring to harm innocent Americans by helping to organize and fund training programs for U.S. law enforcement officials in Israel. According to the many anti-Israel organizations and activists promoting the campaign, these trainings are “deadly exchanges” where American and Israeli security officials and experts “trade tips” and “share worst practices” that “extend discriminatory and repressive policing in both countries,” including fatal police shootings of African Americans and the “extrajudicial killings” of Palestinians in the West Bank.

Initially, the campaign focused primarily on blaming Israel and its alleged mistreatment of Palestinians for the oppression of American minorities, positing a false “intersectional equivalence” between the situation facing the Palestinians and the problems of policing in America’s inner cities.²⁹ Like policing in the United States, policing methods and tactics in Israel can also be criticized. However, the notion that counterterrorism trainings and leadership seminars hosted in Israel for senior U.S. law enforcement officials are responsible for a complex and multifaceted phenomenon such as militarized policing in the United States is an accusation for

28 Benjamin Kerstein, “Tufts University Group Condemns Passage of ‘Modern-Day Antisemitic Blood Libel’ by Student Government,” *The Algemeiner*, December 20, 2020 at <https://www.algemeiner.com/2020/12/20/tufts-university-group-condemns-passage-of-modern-day-antisemitic-blood-libel-by-student-government/>. See also Melissa Weiss, “Tufts referendum targets campus police seminars in Israel,” *Jewish Insider*, November 23, 2020 at <https://jewishinsider.com/2020/11/tufts-university-israel-police/>; Jackson Richman, “Campaign at Tufts aims to be first US university to end Israel law-enforcement cooperation,” *JNS*, March 9, 2020 at <https://www.jns.org/campaign-tufts-seeks-first-us-university-endorse-campaign-end-us-israel-law-enforcement-cooperation/>.

29 Yoav Fromer, “How Israel is Being Framed: Why Palestine Is Not Ferguson,” *Tablet*, December 3, 2015 at <http://www.tabletmag.com/jewish-news-and-politics/195487/how-israel-is-being-framed>.

which there is no empirical evidence.³⁰ That is, Deadly Exchange propaganda posits a link between U.S. and Israeli policing practices even though controversial U.S. policing tactics are not learned in Israel or developed with Israel's participation.³¹

For years, anti-Israel activists have been falsely blaming Israel for U.S. police shootings.³² However, what is particularly unique and concerning about the Deadly Exchange campaign is that it connects American Jews to this oppression of blacks, thus tapping into antisemitic tropes and canards by conceiving of Israel as a malevolent part of a wider Jewish conspiracy. The campaign's materials—reports, articles, videos, imagery, and other information spread on social media—double down on foundational antisemitic memes by alleging that mainstay



Credit: Facebook

organizations of American Jewry are co-conspirators with Israel in a nefarious mission to manipulate U.S. state agencies. Not only does this imply that the primary allegiance of American Jewry is to Israel—the “dual loyalty” accusation that is among the most prevalent examples of antisemitism—but Deadly Exchange also essentially scapegoats American-Jewish organizations as a hidden and moneyed force behind the degradation of American society. The campaign thus traffics in a theme disturbingly consistent with age-old antisemitic theories in which Jews are cast as tricksters and selfish outsiders who use their wealth and influence to plot against

30 Contrary to the claims of Deadly Exchange, for example, these exchange programs—launched to address counterterrorism needs of local U.S. law enforcement following the September 11, 2001 attacks—do not have a “tactical field training” component and participating police officials are not taught arrest mechanisms or how to use physical restraints. See, e.g., *Algemeiner* Staff, “Israel Pushes Back Against Far-Left Efforts to Blame It For US Police Brutality,” *The Algemeiner*, June 9, 2020 at <https://www.algemeiner.com/2020/06/09/israel-pushes-back-against-far-left-efforts-to-blame-it-for-us-police-brutality/>; Kelly Martinez, “My trip to Israel did not involve protest-suppression training at all,” *The San Diego Union-Tribune*, July 17, 2020, <https://www.sandiegouniontribune.com/opinion/commentary/story/2020-07-17/commentary-my-trip-to-israel-did-not-involve-protest-suppression-training-at-all>. Law enforcement exchange programs, including those with Israel and many other countries, are supported by the Hispanic American Police Command Officers Association and the National Organization of Black Law Enforcement Executives (NOBLE), among other professional police associations.

31 Ben Sales, “More than 1,000 senior US police officers have visited Israel. Here’s what they learn from Israel’s police force—and why its controversial,” *JTA*, July 20, 2020 at <https://www.jta.org/2020/07/20/united-states/more-than-1000-senior-us-police-officers-have-visited-israel-heres-what-they-learn-from-israels-police-force-and-why-its-controversial>.

32 William A. Jacobson, “Exposed: Years-long effort to blame Israel for U.S. police shootings of blacks,” *Legal Insurrection*, July 18, 2016 at <https://legalinsurrection.com/2016/07/exposed-years-long-effort-to-blame-israel-for-u-s-police-shootings-of-blacks/>.

good, decent people.³³ Commenting on Deadly Exchange, a prominent Canadian scholar condemned its unsubstantiated insinuation that a Jewish cabal works to threaten and harm America's minority communities:

Saying that Jewish groups are the primary drivers of U.S. aid to Israel and for the scourge of institutionalized racism in America makes me queasy in that the causal logic is so deeply implied but so empirically thin as to imply a secret conspiracy.³⁴

With Deadly Exchange being endorsed and heavily promoted by anti-Israel national organizations, including Jewish Voice for Peace, SJP, American Muslims for Palestine, and U.S. Campaign for Palestinian Rights, activism around this campaign is likely to continue on American campuses.³⁵ This makes strategic sense because the campaign provides a useful vehicle for advancing intersectional allyships with large numbers of student groups, given that many students care strongly about addressing the issues of anti-black racism in America's policing practices and criminal justice systems and disproportionate police violence against the black community.

Fortunately, the diffuse structure of BLM offers opportunities for engaging while countering attempts to inject propaganda such as Deadly Exchange into anti-racist work. When anti-Israel groups seek to hijack important conversations around racial justice for their own purposes, there is value in pointing to prominent politicians, activists, and organizations, including leading proponents of BLM, who denounce such efforts.³⁶ Jewish members of the campus community can also seek out ways to engage constructively with anti-racism working groups, committees, and forums that are now forming on many campuses nationwide by finding ways

33 Miriam F. Elman, "Israel and the Left: Three Studies of the Crisis: (2) Jewish Voice for Peace's antisemitic Deadly Exchange campaign," *Fathom*, June 2019 at <https://fathomjournal.org/israel-and-the-left-three-studies-of-the-crisis-2-jewish-voice-for-peaces-antisemitic-deadly-exchange-campaign/>; and Miriam F. Elman, "Anti-Semitic campaign to blame Jews and Israel for U.S. police practices toward minorities shifts into overdrive," *Legal Insurrection*, September 29, 2018 at <https://legalinsurrection.com/2018/09/anti-semitic-campaign-to-blame-jews-and-israel-for-u-s-police-practices-towards-minorities-shifts-into-overdrive/>.

34 Mira Sucharov, "Jews Drive U.S. Police Brutality Against People of Color? JVP Crosses Over Into Anti-semitism," *Haaretz*, July 10, 2017 at <https://www.haaretz.com/opinion/has-jewish-voice-for-peace-crossed-the-line-into-anti-semitism-1.5492843>.

35 The Deadly Exchange campaign was initiated in 2017 by the virulently anti-Israel organization Jewish Voice for Peace. It has since been endorsed by other far-left groups and activists. However, it is important to also note that the campaign's messaging has been echoed by far-right extremists and by Louis Farrakhan, the Nation of Islam leader whose vile antisemitism has been a staple of his rhetoric for decades. See CST Blog, "Twin Peakes: How Antisemitic Conspiracy Theories About the Death of George Floyd Are Shared By the Far Left and Far Right," *Community Security Trust – UK*, June 26, 2020 at <https://cst.org.uk/news/blog/2020/06/26/twin-peakes-how-antisemitic-conspiracy-theories-about-the-death-of-george-floyd-are-shared-by-far-left-and-far-right>; Hannah Elka Meyers, "The Flames of Anti-Semitism Are Growing Higher, Fueled by Both the Left and Right," *Tablet Magazine*, February 4, 2021 at <https://www.tabletmag.com/sections/news/articles/anti-semitism-review-2020>.

36 See, for example, Jacob Kornbluh, "Ritchie Torres: 'I am the embodiment of a pro-Israel progressive,'" *Jewish Insider*, December 5, 2019 at <https://jewishinsider.com/2019/12/ritchie-torres-i-am-the-embodiment-of-a-pro-israel-progressive/>; JTA Staff, "Black church group in Missouri condemns Black Lives Matter statement on Israel," *JTA*, August 15, 2016 at <https://www.jta.org/2016/08/15/united-states/black-church-group-in-missouri-condemns-black-lives-matter-statement-on-israel>; Hawk Newsome, "Letter to the Editor: Black Lives Matter leader decries activists' anti-Israel stand," *The Riverdale Press*, September 8, 2016 at <https://riverdalepress.com/stories/black-lives-matter-leader-decries-activists-anti-israel-stand,60860>.

to talk simultaneously about both antisemitism and racism.³⁷ Administrators can facilitate these interactions by providing avenues for dialogue and by modeling robust and respectful conversations on contentious topics.

CONCLUSION

Antisemitism is surging in the United States and around the world; the situation on many American campuses remains equally concerning.³⁸ An uptick in incidents of far-right antisemitic vandalism is leaving many Jewish students afraid for their emotional well-being and even their physical safety. Jewish students also face malicious attacks from divisive rhetoric and hate speech related to Israel and Zionism. In progressive circles on campus, they are increasingly expected to shed their Zionist identities and their support for Israel as the price of inclusion and allyship. With the coronavirus pandemic, which has created an unprecedented upheaval in higher education, Jewish students continue to be targeted and harassed in online forums and on social media.

Hard-pressed university administrators may be less sensitive about antisemitism than about what they perceive as more pressing “isms,” such as racism and sexism. They may perceive American Jews as doing well and, therefore, as less in need of support. They may also subscribe to the conventional thinking about who is a minority and which group demands attention. Some may lack full knowledge or awareness of the history of antisemitism as a form of prejudice requiring forceful and unequivocal responses, just like racism, sexism, homophobia, Islamophobia, and other types of hate and intolerance. Others may not be familiar with the new pernicious form of antisemitism that erases Jews as victims of prejudice while demonizing and delegitimizing Israel and its supporters.

It should go without saying that Jewish students are entitled to the same support and protections as other vulnerable minority groups on campus. Failing to respond promptly to antisemitic incidents on campus—including when Jewish students, faculty, or staff are targeted for their actual or perceived attachments to Israel—raises question about a university’s commitment to and support for Jewish members of the campus community. Whenever possible, hateful speech directed at Jews ought to elicit the same kind and degree of serious concern from campus leaders as hate speech against other minority groups. By its speech and action, university leaders should make it clear that antisemitism will not be tolerated. When acts of antisemitism violate the rights of others on campus to free speech and assembly, administrators should follow through with investigations and disciplinary proceedings to ensure fairness and due process while, at the same time, equally enforcing student codes of conduct.

Incidents that negatively impact Jewish students and others can be used as “teachable moments” to educate about contemporary antisemitism, including how antisemitism can be found on both the right and left of the ideological spectrum and how anti-Jewish scapegoating and conspiracy theorizing can masquerade as legitimate political discourse, and even as aligned with social and racial justice. Additionally, these moments should encourage the work necessary for advancing the academy’s values of civility, tolerance, and respectful debate. Here, faculty have a role to play in mentoring students, speaking out against antisemitic disinformation and propaganda on campus, and developing curricula that enhance an appreciation of Jewish identity

37 Ethan B. Katz and Deborah Lipstadt, “Far more unites Black and Jewish Americans than divides them,” *CNN*, July 18, 2020 at <https://www.cnn.com/2020/07/18/opinions/black-celebrities-anti-semitism-anti-racism-katz-lipstadt/index.html>.

38 Anti-Defamation League, *Audit of Antisemitic Incidents 2020*, at <https://www.adl.org/audit2020>.

and the Jewish experience.³⁹ University leaders must also take the lead and set the tone by training staff to better identify and understand antisemitism and to develop clear protocols and best practices for responding to such bigotry, harassment, or discrimination in real time. Antisemitism and antisemitic forms of anti-Israel expression must be addressed along with other forms of bigotry, hatred, and types of intolerance on campus. Rhetoric and actions that harm Jewish students should be treated with a sense of urgency similar to that which such incidents directed at other marginalized groups receive.

39 For example, at the University of Illinois, a group of faculty members, including a number of AEN members, recently issued a letter in support of the right of Jewish students to file grievances about campus antisemitism to the Department of Education's Office of Civil Rights and urged their colleagues not to undermine the Department's investigation by calling into question the students' "own experiences of anti-Semitism." See Greta Anderson, "U of Illinois Jewish Faculty Split on Anti-Semitism Complaint," *Inside Higher Ed*, November 6, 2020 at <https://www.insidehighered.com/quicktakes/2020/11/06/u-illinois-jewish-faculty-split-anti-semitism-complaint>. Several AEN faculty members recently rallied in support of Jewish students at the University of Southern California, where they spearheaded a petition publicly defending Zionism. See USC Faculty, "An Open Faculty Letter to the USC Community on Supporting Zionist Students at USC," *The Algemeiner*, September 2, 2020 at <https://www.algemeiner.com/2020/09/02/an-open-faculty-letter-to-the-usc-community-on-supporting-zionist-students-at-usc/>; and Anna Krylov and Arie Warshel, "Letter to the Editor: Following Rose Ritch resignation, USC's climate of inclusion must be redefined to include Zionism," *Daily Trojan*, October 2, 2020 at <https://dailytrojan.com/2020/10/02/letter-to-the-editor-following-rose-ritch-resignation-uscs-climate-of-inclusion-must-be-redefined-to-include-zionism/>. And, at Columbia University, AEN faculty members have recently fielded several campus-wide petitions condemning antisemitism and expressing concerns that divisive BDS activism would adversely affect the campus climate for many Jewish and pro-Israel students. See Jackson Richman, "70-plus faculty member thank Columbia university president for battling BDS vote," *JNS*, March 23, 2020 at <https://www.jns.org/70-plus-faculty-members-thank-columbia-university-president-for-battling-bds-vote/>; and Algemeiner Staff, "Columbia University Faculty Members Issue Open Letter of Support for President After He Denounces Pro-BDS Referendum," *Algemeiner*, October 8, 2020 at <https://www.algemeiner.com/2020/10/08/columbia-university-faculty-members-issue-open-letter-of-support-for-president-after-he-denounces-pro-bds-referendum/>.

PART II.

CAMPUS FREE EXPRESSION AND THE ANTI-ISRAEL MOVEMENT

CHAPTER 5.

THE FIRST AMENDMENT ON CAMPUS AND THE “HECKLER’S VETO”

MICHAEL B. ATKINS

INTRODUCTION

In the United States, freedom of speech is a fundamental individual right guaranteed by the First Amendment to the U.S. Constitution.¹ The Supreme Court has called it “the matrix, the indispensable condition, of nearly every other form of freedom.”² Among the moral and practical reasons why freedom of expression deserves broad protection in American law are that it is essential to both freedom of thought and democratic self-governance, it aids the discovery of truth via the marketplace of ideas, it promotes individual autonomy, and it fosters tolerance.³

Arguably, nowhere is freedom of speech more critical than on the university campus. Freedom of speech is essential to creating and fostering an environment in which ideas can be explored and debated, theories tested, and conversations pursued without fear of censorship or sanction. Indeed, as the Supreme Court declared more than half a century ago, “The essentiality of freedom in the community of American universities is almost self-evident.”⁴ While only public academic institutions, as state actors, are subject to the First Amendment, most private colleges and universities openly embrace the right to freedom of speech and guarantee it to students and faculty members in their campuses’ official rules and policies.⁵ Whether in public or private institutions, campus leaders as well as members of the faculty should affirm clearly, consistently, and unequivocally that their campuses support the free expression of all ideas, whether popular or not.

1 The First Amendment states: “Congress shall make no law ... abridging the freedom of speech ...”

2 *Palko v. Connecticut*, 302 U.S. 319, 327 (1937).

3 See Erwin Chemerinsky, *Constitutional Law: Principles and Policies*, sixth edition (Aspen Treatise Series) (Wolters Kluwer, 2019), § 11.1.2; Erwin Chemerinsky and Howard Gilman, *Free Speech on Campus* (Yale University Press, 2017), 23 (citing Steven Pinker, “Why Free Speech is Fundamental,” *Boston Globe* [Jan. 27, 2015], and Thomas L. Emerson, *The System of Free Expression* [Random House, 1970]).

4 *Sweezy v. New Hampshire*, 354 US 234, 250 (1957).

5 See, e.g., Foundation for Individual Rights in Education (FIRE), “Private Universities,” at <https://www.thefire.org/resources/spotlight/public-and-private-universities/>. FIRE argues that, while they are not subject to the First Amendment, private universities are contractually bound to respect the promises they make to students with regard to protecting freedom of expression on campus, for example, in their promotional materials and student conduct policies.

Perhaps the most robust, contemporary affirmation of campus free expression and academic freedom by an American university is the 2015 Report of the Committee on Freedom of Expression of the University of Chicago, otherwise known as the Chicago Statement or Chicago Principles (the Chicago Principles are reproduced in full in Appendix II).⁶ The Committee was tasked in July 2014 to draft a statement “articulating the University’s overarching commitment to free, robust, and uninhibited debate and deliberation among all members of the university community.”⁷ The Committee referenced a dictum by former University of Chicago president Hannah Halborn Gray that “education should not be intended to make people comfortable, it is meant to make them think. Universities should be expected to provide the conditions within which hard thought, and therefore strong disagreement, independent judgment, and the questioning of stubborn assumptions, can flourish in an environment of greatest freedom.”⁸

“Those who argue that there is a free speech problem on campus point to the use and acceptance of “trigger warnings,” “free speech zones,” unduly proscriptive harassment policies, codes of conduct, and other practices that they contend are suppressing the exercise of free expression.”

The Chicago Statement proclaims the university’s overarching commitment to “free and open inquiry in all matters” and to the principle that the “broadest possible latitude to speak, write, listen, challenge, and learn” should be provided to all members of the university community:

[T]he University’s fundamental commitment is to the principle that debate or deliberation may not be suppressed because the ideas put forth are thought by some or even by most members of the University community to be offensive, unwise, immoral, or wrong-headed. It is for individual members of the University community, not the University as an institution, to make those judgments for themselves, and to act on those judgments not by seeking to suppress speech, but by openly and vigorously contesting the ideas that they oppose. Indeed, fostering the ability of members of the University community to engage in such debate and deliberation in an effective and responsible manner is an essential part of the University’s educational mission.⁹

According to the Foundation for Individual Rights in Education (FIRE), a campus free speech watchdog organization, as of December 2020, nearly 80 higher education institutions or faculty bodies had adopted or endorsed the Chicago Statement or a substantially similar statement. They include public and private institutions, large research universities and state university systems, as well as small liberal arts colleges.¹⁰

6 University of Chicago, Report of the Committee on Freedom of Expression (2015) at <https://provost.uchicago.edu/sites/default/files/documents/reports/FOECommitteeReport.pdf>.

7 Ibid.

8 Ibid.

9 Ibid.

10 See FIRE, “Chicago Statement: University and Faculty Body Support” (Dec. 17, 2020) at <https://www.thefire.org/chicago-statement-university-and-faculty-body-support/>. The Chicago Principles are part of a century-long tradition of

IS THERE A FREE SPEECH CRISIS ON CAMPUS?

Much contemporary discourse about freedom of speech on campus tends to center around two claims, which often are framed as being in conflict. First is the claim that there is a “free speech crisis” on campus. At its core, this claim reflects a belief that college students today—in particular, students at liberal-leaning elite colleges and universities—lack a sufficiently healthy respect for the First Amendment and of the importance of freedom of speech more generally.¹¹

The assertion that there is a free speech problem on campus today draws in part on polling data indicating that significant percentages of today’s college students no longer regard free speech as an absolute right. For example, in a March 2018 article in *National Review*, David French, past president of FIRE, refers to a then-recent survey conducted by Gallup and the Knight Foundation revealing that while the vast majority of students surveyed (89%) say that they believe in the importance of free speech, a strong majority (64%) also favor, contrary to First Amendment jurisprudence, prohibiting “hate speech.”¹² A later survey by Gallup and the Knight Foundation, conducted in 2019, again revealed that while the vast majority of students support free speech in principle, most students also said they supported campus prohibitions against offensive speech that targets certain groups.¹³

Those who argue that there is a free speech problem on campus point to the use and acceptance of “trigger warnings,” “free speech zones,” unduly proscriptive harassment policies, codes of conduct, and other practices that they contend are suppressing the exercise of free expression. In this view, campus administrators also are to blame for their actions, including, among other things, failing to punish students who engage in disruptive behavior and for failing consistently to enforce free speech principles out of concern that they will be criticized for a lack of commitment to promoting diversity and inclusion. It is thus no surprise that many of the individuals and groups who believe there is a free speech crisis on campus have supported state-level legislative measures that would require public universities and colleges to respond more aggressively to disruptive behavior by students and other violations of rules protecting campus free speech.¹⁴

Often, too, arguments about a free speech crisis on campus are couched in psychological or social scientific terms. In 2015, Jonathan Haidt and Greg Lukianoff co-authored a much-discussed article in *the Atlantic*, “The

university reports emphasizing the importance of freedom of speech at institutions of higher learning. Other landmark documents include the American Association of University Professors (AAUP) 1915 “Declaration of Principles,” the AAUP 1940 “Statement of Principles on Academic Freedom and Tenure,” the University of Chicago’s 1967 *Kalven Report*, and Yale University’s 1974 “Woodward Report.”

- 11 See, e.g., Lee C. Bollinger, “Free Speech on Campus is Doing Just Fine, Thank You,” *The Atlantic* (June 12, 2019) at <https://www.theatlantic.com/ideas/archive/2019/06/free-speech-crisis-campus-isnt-real/591394/>
- 12 David French, “A New Campus Survey Reveals Just How Students Are ‘Unlearning Liberty,’” *National Review* (March 13, 2018) at <https://www.nationalreview.com/2018/03/a-new-campus-survey-reveals-just-how-students-are-unlearning-liberty/>.
- 13 See Greta Anderson, “Contradictions on Free Speech,” *Inside Higher Ed* (May 5, 2020) at <https://www.insidehighered.com/news/2020/05/05/gallupknight-foundation-survey-shows-students-conflicted-about-free-speech>.
- 14 See, e.g., Jeremy Bauer-Wolf, “Free Speech Laws Mushroom in Wake of Campus Protests,” *Inside Higher Ed* (September 16, 2019), <https://www.insidehighered.com/news/2019/09/16/states-passing-laws-protect-college-students-free-speech>.

Coddling of the American Mind,” which served as the basis for a later book with the same name.¹⁵ Drawing on cognitive behavioral therapy, Lukianoff and Haidt argue that today’s campus culture, with its emphasis on preventing “microaggressions” and limiting emotional harm, encourages students to reason emotionally rather than rationally and thus leaves them ill prepared to engage with ideas and people that challenge their beliefs and convictions.¹⁶

There is, however, a second—and quite different—viewpoint about the state of free speech on campus today. This view holds that what some may perceive as a lack of respect for the First Amendment by many contemporary college students actually reflects a heightened sensitivity and commitment on their part to making their campuses more inclusive places, especially for historically underserved and underrepresented student groups who may be harmed by some offensive speech. Among its findings, the 2017 Gallup and Knight Foundation poll (mentioned earlier) showed that African American students value inclusive and diverse environments over free-speech protections by 68%, whereas white students prefer free speech by 52% (with men doing so by 61%). As Suzanne Nossel, chief executive of PEN America, observed in a Washington Post editorial: “[O]n many campuses, the students at the center of heated controversies are not the helicopter-parenting offspring of the upper middle class” but rather “students of color” who are concerned with “eradicating persistent manifestations of discrimination that have outlasted decades of efforts at integration.” Among those manifestations are slurs, derogatory comments, and racist rhetoric—speech that generally is protected under the First Amendment.

Those who believe in the importance of promoting diversity and inclusion on campus argue that the “free speech” rallying cry is often used to deflect from other issues, especially race, and often is used to reinforce a political point rather than defend free speech principles as such. Jelani Cobb, writing in *The New Yorker*, observed that many campus incidents framed as First Amendment issues first arise as attempts to bring greater awareness to problems relating to race: “The default for avoiding discussion of racism is to invoke a separate principle, one with which few would disagree in the abstract—free speech, respectful participation in class—as the counterpoint to the violation of principles relating to civil rights.”¹⁷ Although he does not reference it explicitly, much of what Cobb describes in his analysis of free speech and race on campus today draws on arguments in critical race theory, which remains the driving intellectual force in privileging non-discrimination over freedom of expression in constitutional law.¹⁸

Conversations about free speech on campus today too often are presented, unhelpfully, in an “us versus them” framework, pitting individual rights against inclusion and diversity ideals. Michael C. Behrent, professor

15 Greg Lukianoff and Jonathan Haidt, “The Coddling of the American Mind,” *The Atlantic* (September 2015) at <https://www.theatlantic.com/magazine/archive/2015/09/the-coddling-of-the-american-mind/399356/>; Greg Lukianoff and Jonathan Haidt, *The Coddling of the American Mind: How Good Intentions and Bad Ideas are Setting Up a Generation for Failure* (Penguin Books, 2018).

16 See generally *ibid.*

17 Jelani Cobb, “Race and the Free-Speech Diversion,” *The New Yorker* (November 10, 2015), <https://www.newyorker.com/news/news-desk/race-and-the-free-speech-diversion>.

18 Critical race theory (CRT) is a movement that took shape in the 1980s and 1990s that challenges the ability of conventional legal strategies to deliver social and economic justice. It calls for legal approaches that take into consideration race as a nexus of American life. A seminal CRT article in the context of campus speech is Charles R. Lawrence III, “If He Hollers Let Him Go: Regulating Racist Speech on Campus,” *Duke Law Journal*, Vol. 1990, No. 3 (1990), 431–483. For a forceful yet measured critique of CRT, see Henry Louis Gates, Jr., “War of Words: Critical Race Theory and the First Amendment,” in Henry Louis Gates, Jr., et al, *Speaking of Race, Speaking of Sex* (New York University Press, 1994), adapted and expanded from Henry Louis Gates, Jr., “Let Them Talk,” *The New Republic*, September 1993.

of history at Appalachian State University and vice president of the North Carolina Association of American University Presidents conference, observes, to that end:

The AAUP’s 1915 *Declaration of Principles on Academic Freedom and Academic Tenure* rests on the premise that political passions hail from society at large and that one of the university’s functions is to calm those passions through the sobering effects of good scholarship. Whatever the merits of the various arguments that now dominate campus discourse about free speech and inclusion, it is difficult to discern in them any hope that the university might, in the words of the 1915 Declaration, render public opinion “more circumspect,” “check the more hasty and unconsidered impulses of popular feeling,” and “train the democracy to the habit of looking before and after. . . . So long as the broader culture continues to be so deeply polarized, a resolution to the campus free speech debate in the immediate future seems highly unlikely. Free-speech absolutism and the utopia of inclusivity leave little room for negotiation.¹⁹

Behrens is correct that the discourse around free-speech on campus today often appears to be—and, in fact, is—polarized. No doubt, principles of freedom of expression will invariably at times come into conflict with other principles. Affirming campus free speech is critical, but it need not require universities to compromise on their commitments to creating and sustaining a diverse, inclusive campus. If the university is to succeed in its function of promoting reasoned inquiry and dispassionate debate and scholarship, faculty members, university leaders, students, and other members of the campus community must continue to wrestle with these issues in a thoughtful, respectful manner.

THE FIRST AMENDMENT ON CAMPUS: KEY PRINCIPLES

From a federal constitutional perspective, public and private universities are subject to different standards when it comes to protecting freedom of speech on campus. As organs of state government, public universities and colleges must abide strictly by the First Amendment.²⁰ Unless state law is to the contrary, 21 private universities may restrict access and create rules respecting speech and expression that would not be permissible at public institutions. In practice, however, these differences tend to disappear at most private institutions,

19 Michael C. Behrent, “A Tale of Two Arguments about Free Speech on Campus,” *AAUP: Academe* (Winter 2019), <https://www.aaup.org/article/tale-two-arguments-about-free-speech-campus#.YA8n7ulKjIE>.

20 See, e.g., *Widmar v. Vincent*, 454 U.S. 263, 268-69 (1981) (“With respect to persons entitled to be there, our cases leave no doubt that the First Amendment rights of speech and association extend to the campuses of state universities.”). See also Charles A. Wright, “The Constitution on Campus,” *Vanderbilt Law Review*, Vol. 22, No. 5 (1969), 1027–1088. In his now-famous article, Wright argued that the Constitution is and should be applicable to the college campus and that, subject to reasonable and nondiscriminatory regulations, the First Amendment applies with full force to student expression. It is believed to be the first article to object to content-based distinctions in inviting speakers to the university campus.

21 One prominent example of a state law that applies the First Amendment to private colleges and universities is California’s “Leonard Law” (Cal. Educ. Code § 94367). Enacted by the state legislature in 1992, the Leonard Law provides that “No private postsecondary educational institution shall make or enforce any rule subjecting any student to disciplinary sanctions solely on the basis of conduct that is speech or other communication that, when engaged in outside the campus or facility of a private postsecondary institution, is protected from governmental restriction by the First Amendment to the United States Constitution or Section 2 of Article 1 of the California Constitution.” *Ibid.*, § 94367 (a). Notably, the law protects only students, not faculty members, and applies only to secular private colleges and universities, not religiously affiliated institutions. *Ibid.*, § 94367 (c).

especially prominent ones. Princeton University and Columbia University, for example, are among the dozens of private campuses that have formally adopted the University of Chicago Statement on Free Expression,²² proudly affirming their commitment to protecting free expression and academic freedom.

Over the past century, the U.S. Supreme Court has developed a robust First Amendment jurisprudence. While it is beyond the scope of this Guide to detail the history and substantial case law, what follows aims to highlight relevant key principles and notable Court decisions regarding freedom of speech on campus.

A bedrock First Amendment principle that the Court has repeatedly affirmed holds that, as a general rule, laws regulating speech must be content-neutral. That is, the law or rule must apply to all speech regardless of its message.²³ Content-based regulations, which restrict expression on the basis of its subject matter or viewpoint, are presumptively invalid.²⁴ The content-neutrality principle is critically important in constitutional law, for it ensures that government cannot favor or disfavor particular messages and attempt to control thoughts on a topic by regulating speech.²⁵ As the Court has noted, “Laws of this sort [i.e., based on the content of speech] pose the inherent risk that the Government seeks not to advance a legitimate regulatory goal, but to suppress unpopular ideas or information or to manipulate the public debate through coercion rather than persuasion.”²⁶

“A bedrock First Amendment principle that the Court has repeatedly affirmed holds that, as a general rule, laws regulating speech must be content-neutral. That is, the law or rule must apply to all speech regardless of its message.”

22 University of Chicago, Report of the Committee on Freedom of Expression (2015) at <https://provost.uchicago.edu/sites/default/files/documents/reports/FOECommitteeReport.pdf>

23 See Chemerinsky, *Constitutional Law: Principles and Policies*, *supra*, §11.2.1; *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 828 (1995) (“It is axiomatic that the government may not regulate speech based on its substantive content or the message it conveys. . . . Discrimination against speech because of its message is presumed to be unconstitutional.”). Subject-matter neutral means that the government cannot regulate speech based on the topic of the speech. *Viewpoint neutral* means that the government cannot regulate speech based on the ideology of its message. “For example, a law prohibiting the posting of all signs on public utility poles would be content-neutral because it would apply to every sign regardless of its subject matter or viewpoint.” Chemerinsky, *ibid.* (citing *Members of City Council of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789 [1984]).

24 Chemerinsky, *ibid.* For a content-based regulation to pass constitutional muster, the government typically must show that the regulation promotes a compelling state interest and uses the least speech-restrictive means to further that interest. Viewpoint-based restrictions are especially disfavored under the law and will almost always be unconstitutional. For example, in *Matal v. Tam*, 137 S. Ct. 1744 (2017), the Supreme Court struck down a provision of the Lanham Act, the federal statute governing registration of trademarks, that prohibited the registration of a trademark that “[c]onsists of matter . . . which may disparage . . . persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute.” *Matal*, quoting 15 U.S.C. section 1052(a). The Court held that this provision of the Lanham Act impermissibly discriminated based on viewpoint, and thus violated the First Amendment, because government cannot attempt to regulate speech based on its offensiveness. *Matal*, 1764.

25 Chemerinsky, *Constitutional Law*, §11.2.1.

26 *Turner Broad. Sys. v. Federal Communications Commn.*, 512 U.S. 622 (1994).

The Court has applied the content-neutrality principle to disputes that have arisen on public university campuses. For example, in *Healy v. James* (1972),²⁷ the president of a public college denied a request by students to form a local chapter of Students for a Democratic Society (SDS) because he was not satisfied that the campus group was independent of the national SDS, which he concluded had a philosophy of disruption and violence in conflict with the college’s declaration of student rights. Nevertheless, the Court held that the denial of recognition to the campus group violated the students’ First Amendment rights insofar as the decision was based on the college’s disagreement with the group’s political philosophy or its assumed relationship with the national SDS.

Similarly, in *Widmar v. Vincent* (1981),²⁸ the Court held that a state university could not enforce a policy preventing student groups from using school facilities for religious worship or religious discussion. Religious worship and teaching were forms of speech and association protected by the First Amendment, the Court said, and the university’s policy was therefore a content-based regulation discriminating against religious speech.²⁹ In *Rosenberger v. Rector & Visitors of the University of Virginia* (1995),³⁰ the Court again held that a state university violated the First Amendment rights of students on the basis of the content-neutrality principle. In that case, the university had refused to provide student activity funds to a Christian student group that published an expressly religious magazine. The Court determined that the university’s action was impermissible content-based discrimination against religious speech.³¹

In *Board of Regents of University of Wisconsin System v. Southworth* (2000),³² a group of students challenged the constitutionality of mandatory student activities fees that were imposed by the university, arguing that they should not be required to subsidize causes that they opposed. Here, however, the Court rejected the students’ First Amendment challenge. The Court reasoned that in instituting and collecting the fees, the university was not endorsing a particular point of view but was, in fact, facilitating a diversity of ideas on campus. The mandatory fees were permissible, the Court said, provided they were administered in a viewpoint-neutral manner.³³

Public universities sometimes seek to regulate speech through the use of reasonable “time, place, and manner” restrictions. This phrase refers to government’s ability to regulate speech in a public forum—that is, property such as a public park or sidewalk that the government is required to make available for free speech—in a manner that minimizes disruption while still protecting free speech.³⁴ As a general rule, the Supreme Court has approved the use of reasonable time, place, and manner restrictions on expression “provided that

27 408 U.S. 169 (1972).

28 454 U.S. 263 (1981).

29 Ibid., 269.

30 515 U.S. 819 (1995).

31 Ibid., 834.

32 529 U.S. 217 (2000).

33 Ibid., 232.

34 The Court has identified three types of government-controlled spaces for purposes of First Amendment analysis: public forums, designated public forums, and nonpublic forums. “In a traditional public forum—parks, streets, sidewalks, and the like—the government may impose reasonable time, place, and manner restrictions on private speech, but restrictions based on content must satisfy strict scrutiny, and those based on viewpoint are prohibited. The same standards apply in designated public forums—spaces that have ‘not traditionally been regarded as a public forum’ but which the government has ‘intentionally opened up for that purpose. In a nonpublic forum, on the other hand—a space that is ‘not by tradition

they are justified without reference to the content of the regulated speech, that they serve a significant governmental interest, and that in doing so they leave open ample alternative channels for communication of the information.”³⁵

For example, campuses can impose reasonable time, place, and manner restrictions on protests for the purpose of preventing protesters from disrupting the normal work of the university.³⁶ Many campuses impose time, place, and manner restrictions on speech that occurs in and near classroom buildings while classes are in session in order to prevent disruption to class activities.³⁷ Campuses also can condition the use of special facilities on requirements that apply to all persons, such as limits on occupancy of buildings or proof that third-party security officials are bonded and insured.³⁸ In addition, campuses may deny requests for gatherings that present insurmountable logistical or security challenges, or in situations in which accommodating such challenges would impose costs above a generally applied threshold.³⁹

On the other hand, while campuses may have some flexibility to designate certain areas as so-called “free speech zones” and to restrict speech in other areas, the rules must be content-neutral and must not be so restrictive as to prevent speakers from having a meaningful opportunity to express their views. Campuses cannot use time, place, and manner regulations to restrict students to one small designated free speech zone that can only be used with prior permission during certain designated hours while excluding any free speech on public sidewalks, walkways, lawns, and other outdoor areas.⁴⁰ Free speech zones on campus increasingly have been challenged on First Amendment grounds; a number of states have already passed legislation banning public colleges and universities from relegating student expression to such zones.⁴¹

Just as content-based restrictions on speech are presumptively invalid, laws regulating speech that are unduly vague,⁴² overbroad,⁴³ or deemed to be a prior restraint⁴⁴ on speech will usually run afoul of the First Amendment. Laws penalizing hateful speech—speech that is, for example, racist, sexist, homophobic,

or designation a forum for public communication’—the government has much more flexibility to craft rules limiting speech.” *Minnesota Voters Alliance v. Mansky*, 138 S. Ct. 1876 (2018).

35 *Heffron v. Int’l Soc’y for Krishna Consciousness*, 452 U.S. 640, 648 (1981).

36 Erwin Chemerinsky and Howard Gilman, *Free Speech on Campus* (Yale University Press, 2017), 128–129.

37 *Ibid.*

38 *Ibid.*

39 *Ibid.*

40 Chemerinsky and Gilman, *Free Speech on Campus*, *supra*, 128 (citing “ADF Lawsuit Results in Speech Policy Changes at Phoenix Community Colleges,” *Arizona Daily Independent* [November 8, 2016]).

41 See Foundation for Individual Rights in Education, “Bill to prohibit campus ‘free speech zones’ introduced in U.S. Senate” (February 9, 2018) at <https://www.thefire.org/bill-to-prohibit-campus-free-speech-zones-introduced-in-u-s-senate/>.

42 *Ibid.*, § 11.2.2. [Mike: Please review this footnote...the beginning parenthesis mark is missing for this sentence, and maybe something else? Thanks!] The Supreme Court has declared that laws regulating speech are unconstitutionally vague when they are so ambiguous that a reasonable person cannot tell what expression is forbidden and what is allowed (citing *NAACP v. Button*, 415 U.S. 566 [1974] and other authorities).

43 *Ibid.* (“A law is unconstitutionally overbroad if it regulates substantially more speech than the Constitution allows to be regulated, and a person to whom the law constitutionally can be applied can argue that it would be unconstitutional as applied to others.”).

44 See *Ibid.*, §11.2.3 for an extensive discussion of prior restraints.

antisemitic, or simply pejorative—will usually violate the First Amendment because the First Amendment protects speech no matter how offensive its content. The problem with laws penalizing hate speech is not, of course, that they would tend to discourage truly bigoted, racist, or antisemitic speech. Rather, the problem is that they tend to be inherently subjective and not susceptible to precise, narrow definition. As a result, they may effectively license government to punish speech that it disfavors.⁴⁵ In part for that reason, every campus hate speech code that courts have reviewed has been struck down on vagueness or overbreadth grounds.⁴⁶

However, while the courts have held that public universities cannot regulate hateful speech through the use of hate speech codes, this does not mean that public university administrators cannot exercise their own rights, when speaking in their official capacities, to condemn hateful speech. To the contrary, the Supreme Court has held that when the government is the speaker, the First Amendment does not apply at all or provide a basis for challenging the government’s action.⁴⁷ To date, the Court has not had occasion to apply the government speech doctrine to speech on a public university campus.

It is also important to bear in mind that the First Amendment does not protect behavior on campus that crosses the line into discriminatory harassment, including conduct that creates a pervasively hostile environment for vulnerable students. We address the subject of harassment of Jewish and Zionist students in Section __ of the Guide. Also, importantly, the Supreme Court has held that certain categories of speech are not protected under the First Amendment.⁴⁸ Inflammatory speech that intentionally and effectively provokes a crowd to immediately carry out violent and unlawful action is not protected and may be punishable.⁴⁹ Similarly, the Court has held that the First Amendment does not protect “true threats.”⁵⁰

THE “HECKLER’S VETO” PROBLEM: DISRUPTION OF SPEECH BASED ON HOSTILE AUDIENCE REACTION

Nothing is more threatening to the university as a “free and ordered space”⁵¹ for intellectual life than the license some individuals and groups think they have to shut down or proscribe speech by others. An academic department or student group sponsoring a university-approved event, even where the content is controversial,

45 See generally Nadine Strossen, *HATE: Why We Should Resist It with Free Speech, Not Censorship* (Oxford University Press, 2018).

46 Ibid., 72. Strossen adds that even campus speech codes that were drafted “by or with the assistance of faculty First Amendment experts, who presumably selected optimally precise, narrow language” have been struck down on First Amendment grounds.

47 See *Pleasant Grove City v. Summum*, 555 U.S. 460 (2009).

48 Chemerinsky, *Constitutional Law*, § 11.3.7.

49 See *Brandenburg v. Ohio*, 395 U.S. 444 (1969), in which the Court held that the government may not forbid or punish speech advocating violence or the use of force “except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.” 395 U.S., 447. The incitement standard under *Brandenburg* sets a very high bar, and appropriately so. It has been used to protect all kinds of political speech, including speech that at least tacitly endorses violence, no matter how righteous or vile the cause.

50 Chemerinsky, *Constitutional Law*, § 11.3.2.5.

51 The phrase comes from the late president of Yale University, G. Bartlett Giamatti. Universities, Giamatti said, ideally are “free and ordered spaces.” That is, they are places where multiple conversations can and should take place, contributing richly to the research, teaching and learning that are their central purposes. See A. Bartlett Giamatti, *A Free and Ordered Space: The Real World of the University* (New York, W. W. Norton, 1989).

must be confident in the expectation that the university will not seek to cancel it and will take all reasonable measures to ensure that it is not disrupted or overwhelmed by protest. Organizers should be confident that their university will do its best to provide speakers the opportunity to state their views openly and without interference and to provide audience members the opportunity to listen and engage.

There are free speech rights for protestors as long as their protest is thoughtfully regulated through attention to the time, place, and manner aspects of institutional student conduct codes. Protest that is limited in volume and duration, eschews disruption, avoids blocking paths and entrances, and has a goal beyond simply drowning out the speaker is and should be permissible and accommodated by university authorities. Indeed, there are ample opportunities and methods for protestors to express views opposed to a speaker without infringing on the speaker’s rights or the rights of others to hear the speaker—including protest outside an event, silent protest inside with signs or badges, turned backs, silent walkouts, leafleting, and other methods. Protestors can also raise difficult questions in response to lectures during appropriate question-and-answer sessions.

However, the Supreme Court has made clear that government cannot prevent speech on the ground that it is likely to provoke a hostile audience response.⁵² This is the so-called rule against the “heckler’s veto.” It is grounded on the principle that without this vital protection, government officials could use safety concerns to justify shutting down speech that they or others disfavor. Instead, the First Amendment requires the government to provide protection to all speakers, no matter how provocative their speech might be, provided there is no imminent threat to the safety of those present. The government generally must take reasonable measures to ensure that speakers are able to safely address their audience, free from violence or censorship.⁵³

On the university campus, a “heckler’s veto” occurs when an invited speaker is canceled or shut down as a consequence of the actual or potential hostile reaction from audience members.⁵⁴ Public colleges and

52 See *Terminiello v. Chicago*, 337 U.S. 1 (1949); *Cantwell v. Connecticut*, 310 U.S. 296 (1940); *Feiner v. New York*, 340 U.S. 315 (1951) (Black, J., dissenting); *Edwards v. South Carolina*, 372 U.S. 229 (1963); *Cox v. Louisiana*, 379 U.S. 536 (1965); and *Gregory v. City of Chicago*, 394 U.S. 111 (1969). See also *Bible Believers v. Wayne County*, 805 F.3d 228 (6th Cir. 2015) (police unlawfully effectuated a heckler’s veto when they prevented a group of Christian evangelists from speaking at an Arab-American festival in response to hostile reaction from other festivalgoers who objected to the group’s anti-Muslim message).

53 See *ibid.*

54 See, e.g., Zach Greenberg, “Rejecting the ‘heckler’s veto,’” *Foundation for Individual Rights in Education (FIRE)* (June 14, 2017) at <https://www.thefire.org/rejecting-the-hecklers-veto/>. Although the Supreme Court has not decided a heckler’s veto case involving university campus speech, its decisions over time have affirmed the more general principle that government may not punish individuals for speech that provokes a hostile audience reaction. See *Terminiello v. Chicago*, 337 U.S. 1 (1949) and *Cantwell v. Connecticut*, 310 U.S. 296 (1940) (Court overturned convictions for disturbing the peace based on hostile audience reactions because, in each case, the speech in question did not pose a clear and present danger of lawlessness); *Feiner v. New York*, 340 U.S. 315 (1951) (Black, J., dissenting, disagreeing with majority’s application of the “clear and present danger” test to uphold the conviction for disturbing the peace of a man who gave a speech sharply criticizing the president and local public officials for their record on civil rights; the appropriate response of the police should have been to control the crowd, and only if that was impossible and a threat to breach of the peace was imminent could the police arrest the speaker); *Edwards v. South Carolina*, 372 U.S. 229 (1963) (Court overturned conviction of civil rights protesters who had staged a march to the South Carolina capitol and provoked a hostile crowd); *Cox v. Louisiana*, 379 U.S. 536 (1965) (Court overturned conviction of civil rights activists who were arrested after audience members reacted negatively to a speech they gave objecting to the racial segregation of lunch counters and urging a sit-in); *Gregory v. City of Chicago*, 394 U.S. 111 (1969) (Court unanimously overturned convictions for disturbing the peace for a group of peaceful civil rights demonstrators who had been arrested when an angry mob threatened the marchers). See also *Bible Believers v. Wayne County*, 805 F.3d 228 (6th Cir. 2015) (police unlawfully effectuated a heckler’s veto when they prevented a group of Christian evangelists from speaking at an Arab-American festival in response to hostile reaction from

universities are free to invite whomever they like to speak at commencement ceremonies or other events, just as students are free to protest speakers they find offensive. However, university administrators cannot dictate which speakers students may invite to campus on their own initiative. If a college or university usually allows students to use campus resources (such as auditoriums) to entertain guests, the school cannot withdraw those resources simply because students have invited a controversial speaker to campus. In addition, when a controversial speaker is duly invited, the university must take reasonable steps to prevent a hostile crowd from denying the speaker the ability to give a talk while protecting the safety and free speech rights of all speakers and listeners. Universities may not cancel an event solely to avoid paying the extra security costs associated with the event, nor can universities pass those costs on to speakers or to those who have invited them.⁵⁵

Still, the law leaves unanswered many important questions. When, precisely, does lawful protest by audience members become impermissibly hostile or disruptive behavior? How much advance planning and preparation must a university undertake to ensure that invited speakers are able to exercise their free speech rights? Is there a ceiling on the financial costs a university must bear in order to protect freedom of speech in the context of a campus event?

These questions were tested in a series of high-profile campus speaking events that were planned and took place during the year 2017. Beginning early that year, self-described conservative student groups at University of California, Berkeley (UC Berkeley) and on several other campuses sought to organize high-profile campus speaking events featuring conservative-leaning and sometimes controversial public figures. The first prominent event involved the “alt-right” provocateur Milo Yiannopoulos, who was scheduled to speak at UC Berkeley in February. Despite vigorous student protests against Yiannopoulos appearing on campus, the university took significant steps to ensure that the event would take place. These included requesting police reinforcements from other University of California campuses, setting up a wide perimeter around the venue, and setting up barricades to create a safety zone between protesters and people attending the event. Unfortunately, even these extensive measures were not enough to maintain public safety. Some 150 black-clad rioters associated with the anarchist group “Black Bloc”—many of them armed with poles and sticks and wearing masks, helmets and body armor—ignited fires, hurled Molotov cocktails, destroyed barricades, smashed windows, and physically attacked bystanders. The rioters overwhelmed the campus police and the university was forced to cancel the event.⁵⁶

One month later, in March, Yiannopoulos was invited to speak at the University of Washington. Despite spending almost \$100,000 on extra security, the campus was unable to prevent a person from being shot after

other festivalgoers who objected to the group’s anti-Muslim message; the court determined that the police officers had options available to them short of threatening the evangelists with citations if they did not leave the grounds, including instructing the hecklers to calm down and arresting them if they became violent, increasing the police presence, cordoning off the evangelist group speakers to protect them, and dispersing the entire crowd).

55 See *Forsyth v. Nationalist Movement*, 505 U.S. 123 (1992). *Forsyth* dealt with a provision of a county ordinance requiring that the cost of security to protect demonstrators on public property would be assessed to the demonstrators themselves if the cost exceeded the usual cost of law enforcement for permitted gatherings. Under the ordinance, a county administrator had the authority to determine the cost of extra security that would be required in a given circumstance and to assess those additional costs accordingly. The Supreme Court struck down the ordinance on First Amendment grounds. The Court explained that any policy imposing financial costs on speech, when based on assessment of the likelihood of physical disruption due to the speech, necessarily requires an evaluation of the content of the message of the speech. Were the policy at issue in *Forsyth* lawful, government could use it as a pretext to censor speech by preventing any group it did not like from holding an event by charging the group excessively high fees.

56 Madison Park and Kyung Lah, “Berkeley protests of Yiannopoulos caused \$100,000 in damage,” *CNN.com* (February 2, 2017) at <https://www.cnn.com/2017/02/01/us/milo-yiannopoulos-berkeley/index.html>.

the event, although the speech itself was not disrupted.⁵⁷ The same month, student protesters at Middlebury College—the small, private liberal arts college in Vermont—disrupted and forced the cancellation of a talk by Charles Murray. Professor Allison Stanger, who had helped to organize the event, was seriously injured when angry protesters attacked her and Murray while the two of them were trying to leave the event.⁵⁸ Dozens of students were later disciplined by the college, although no one was suspended or expelled.⁵⁹

During the summer, students at UC Berkeley announced that they would be sponsoring a “Free Speech Week” on campus to feature Milo Yiannopoulos, Ben Shapiro, Steve Bannon, and Ann Coulter. Anticipating the possibility of violence and at the same time seeking to honor its commitment to protect campus free speech, Berkeley spent an astonishing \$3.9 million on security and related costs. Ben Shapiro appeared and spoke in a large campus auditorium while Yiannopolous was on campus for only fifteen minutes. The rest of Free Speech Week was cancelled at the last minute by the student organizers.⁶⁰

Undoubtedly the most controversial figure to address university campuses in 2017 was the alt-right white nationalist Richard Spencer. In August of 2017, Spencer was scheduled to speak at a “Unite the Right” rally in Charlottesville, Virginia. The night before the rally, several hundred white nationalists marched on the main quadrangle of the University of Virginia campus shouting “Jews will not replace us” and racists chants while carrying lit torches.⁶¹ The next day, violence ensued, resulting in numerous injuries and in the tragic death of Heather Heyer.⁶²

A previously little-known figure to most Americans, Spencer gained notoriety for his lead role in organizing the Unite the Right rally and as a consequence of his many speaking engagements, both before and after Charlottesville, in which he openly advocated white supremacist and other hateful views. Among the places where Spencer sought to speak were prominent public university campuses. These included Auburn University, Michigan State University, The Ohio State University (OSU), and the University of Florida.

Although Spencer claimed that he had followed the relevant campus protocols for reserving space to speak, Auburn, Michigan State, and Ohio State each denied Spencer his request to speak, citing concerns about campus safety and possible violence. (Michigan State and Ohio State pointed specifically to the violence that had occurred at the Unite the Right Rally in Charlottesville; the request to speak at Auburn took place several

57 Daniel Gilbert, “Milo Yiannopoulos at UW: A speech, a shooting and \$75,000 in police overtime,” *Seattle Times* (March 26, 2017) at <https://www.seattletimes.com/seattle-news/law-justice/milo-yiannopoulos-at-uw-a-speech-a-shooting-and-75000-in-police-overtime/>.

58 Allison Stanger, “Understanding the Angry Mob at Middlebury College That Gave Me a Concussion,” *New York Times* (March 13, 2017) at <https://www.nytimes.com/2017/03/13/opinion/understanding-the-angry-mob-that-gave-me-a-concussion.html>.

59 Stephanie Saul, “Dozens of Middlebury Students Are Disciplined for Charles Murray Protest,” *New York Times*, May 24, 2017) at <https://www.nytimes.com/2017/05/24/us/middlebury-college-charles-murray-bell-curve.html>.

60 Frances Dinkelspiel, “UC Berkeley Spent Close to \$4M on Security in Just One Month in 2017,” *Berkeleyside* (February 6, 2018) at <https://www.berkeleyside.org/2018/02/06/uc-berkeley-spent-close-4m-security-just-one-month-2017>.

61 Hawes Spencer and Sheryl Gay Stolberg, “White Nationalist March on University of Virginia,” *New York Times* (August 11, 2017) at <https://www.nytimes.com/2017/08/11/us/white-nationalists-rally-charlottesville-virginia.html?searchResultPosition=1>.

62 Joe Heim, “Recounting a Day of Rage, Hate, Violence and Death,” *The Washington Post* (August 14, 2017) at https://www.washingtonpost.com/graphics/2017/local/charlottesville-timeline/?tid=a_inl_manual.

months before the events in Virginia.)⁶³ Spencer responded by filing lawsuits seeking to enjoin the universities from preventing him to speak. In legal filings, Spencer charged that the decisions by the campuses in question to refuse him access to speak violated his First Amendment rights. He claimed that the decisions amounted to viewpoint-based censorship of his constitutionally protected political speech. He further claimed that his speech was not aimed at inciting violence and that the universities’ claims to that effect were merely a pretext to deny him a platform because they disliked the message of his speech. In effect, he charged that the campuses were attempting to exercise an unlawful “heckler’s veto” of his speech.⁶⁴

Spencer was able to speak at the University of Florida, which did not contest his right to appear there, but only after the university made extensive security efforts costing it some \$500,000 and after the governor declared a state of emergency.⁶⁵ Spencer and Michigan State reached a settlement under which Spencer could give his talk on a less-crowded part of the campus to minimize the risk of violence or disruption.⁶⁶ Even so, 100 officers in riot gear broke up fights and made arrests.⁶⁷ With regard to Ohio State, Spencer dropped his lawsuit after the campus answered his complaint and sought evidence about whether Spencer might be coordinating with others who were planning violence at the event. OSU claimed that at previous events, Spencer and other event organizers “only feigned cooperation with local officials on safety matters while drawing up

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- 63 See David Jess, “MSU says no space for Richard Spencer’s white supremacist group to speak,” *Detroit Free Press* (August 17, 2017) at <https://www.freep.com/story/news/local/michigan/2017/08/17/michigan-state-university-denies-white-supremacist-group-visit-campus/577999001/>; Dake Kang, “Ohio State University denies appearance by white nationalist Richard Spencer,” *Chicago Tribune* (October 20, 2017) at <https://www.chicagotribune.com/nation-world/ct-ohio-state-richard-spencer-20171020-story.html>; Laila Kearney, “Auburn University cancels speech by avowed white nationalist,” *Reuters* (April 14, 2017), <https://www.reuters.com/article/us-alabama-nationalist/auburn-university-cancels-speech-by-avowed-white-nationalist-idUSKBN17H00Q>.
- 64 See David Jesse, “MSU sued by Richard Spencer’s white supremacist group for refusing space on campus,” *Detroit Free Press* (September 3, 2017) at <https://www.freep.com/story/news/local/michigan/2017/09/03/msu-sued-richard-spencers-white-supremacist-group-refusing-space-campus/630355001/>; Kevin Stankiewicz, “Ohio State Sued After Denying White Supremacist Richard Spencer Space to Speak,” *The Lantern* (October 22, 2017) at <https://www.thelantern.com/2017/10/ohio-state-sued-after-denying-white-supremacist-richard-spencer-space-to-speak/>; Jeremy Bauer-Wolf, “White Nationalist Defies Auburn,” *Inside Higher Ed* (April 19, 2017) at <https://www.insidehighered.com/news/2017/04/19/white-nationalist-backed-court-order-appears-auburn>. See also First Amended Verified Complaint, *Padgett v. Simon*, Case No. 1:17-cv-00805-JTN-ESC (W.D. Michigan, November 13, 2017); First Amended Verified Complaint, *Padgett v. Drake*, Case No. 2:17-cv-00919-ALM-KAJ (S.D. Ohio, November 30, 2017); Complaint, *Padgett v. Auburn University*, Complaint, Case 3:17-cv-00231-WKW-WC (M.D. Alabama, April 18, 2017).
- 65 Matt Pearce and Les Neuhaus, “White Nationalist Richard Spencer to Noisy Florida Protestors: You Didn’t Shut Me Down,” *Los Angeles Times* (October 19, 2017) at <https://www.latimes.com/nation/la-na-florida-spencer-speech-20171019-story.html>; Jeremy Bauer-Wolf, “Lessons from Spencer’s Florida Speech,” *Inside Higher Ed* (October 23, 2017) at <https://www.insidehighered.com/news/2017/10/23/nine-lessons-learned-after-richard-spencers-talk-university-florida>.
- 66 Susan Svrluga, “Michigan State agrees to let Richard Spencer give a speech on campus,” *The Washington Post* (January 18, 2018) at <https://www.washingtonpost.com/news/grade-point/wp/2018/01/18/michigan-state-agrees-to-let-richard-spencer-give-a-speech-on-campus/>.
- 67 David Jesse and R. J. Wolcott, “Fistfights, arrests erupt at Michigan State University before Richard Spencer takes stage,” *Detroit Free Press* (March 5, 2018) at <https://www.freep.com/story/news/local/michigan/2018/03/05/richard-spencer-michigan-state-university/395079002/>

secret military-style plans to disobey law enforcement or campus directives if their event was limited in ways they deemed unacceptable.”⁶⁸

At Auburn University, Spencer was permitted to speak on campus on April 18, 2017, after a federal judge enjoined the university from canceling his talk on First Amendment grounds. In a written opinion⁶⁹ granting a preliminary injunction in favor of Spencer, Judge Keith Watkins of the U.S. District Court for the Middle District of Alabama wrote that Auburn had cancelled the talk “based on its belief that listeners and protest groups opposed to Mr. Spencer’s ideology would react to the content of his speech by engaging in protests that could cause violence or property damage.”⁷⁰ That constituted “discrimination on the basis of message content” because “listeners’ reaction to speech is not a content-neutral basis for regulation.”⁷¹ Although there was “uncontradicted evidence” that a “group called ‘Anti-fa,’ known for donning masks and engaging in violent protests, intends to engage in non-peaceful protest at Mr. Spencer’s speech at Auburn[,]” the court determined that the threat of violence from Antifa or other individuals or groups could not override Spencer’s First Amendment free speech rights.⁷²

The court made it clear that Auburn, through its campus police, must take “all necessary and appropriate steps, within their available resources, to provide security for Mr. Spencer, event attendees, peaceful protestors, and all other persons on the Auburn University campus on April 18, 2017.”⁷³ Further, the court ordered that “[s]ecurity personnel may not cut off the free speech of Mr. Spencer or other persons except as a last resort to ensure security or to prevent violence or property damage, and only after first making ‘bona fide efforts to protect the speaker from . . . hostility by other, less restrictive means.’”⁷⁴

While the ruling in the Auburn case is based on unique factual circumstances and will have limited precedential value for other courts, it illustrates how the rule against the “heckler’s veto” can be applied on campus. It also reveals the extent to which individual free speech rights are protected under U.S. law—even in the face of speech that is racist, antisemitic, and could potentially lead to violence.

CONCLUSION

Antisemitic, racist, and other hateful speech can be deeply offensive. However, in our democracy, and especially on America’s university and college campuses, hateful speech cannot be cause for censorship. AEN is committed on principle to protecting campus free expression in all forms. However, this does not diminish AEN’s equally strong commitment to supporting university efforts to build inclusive, equitable, and diverse campus communities for all students. Our position is that procedures governing campus free expression are

68 Associated Press, “Richard Spencer to Drop Ohio State Lawsuit,” *Cincinnati.com* (March 6, 2018) at <https://www.cincinnati.com/story/news/2018/03/06/richard-spencer-drop-ohio-state-lawsuit/401291002/>; Lori Falce, “Ohio State Responds to Spencer Suit, Cites Safety as Reason for Denial,” *Centre Times Daily* (January 7, 2018) at <https://www.centredaily.com/news/local/education/penn-state/article193483689.html>. See also Defendants’ Answer to First Amended Verified Complaint, *Padgett v. Drake*, Case: 2:17-cv-00919-ALM-KAJ (S.D. Ohio, December 22, 2017).

69 *Padgett v. Auburn Univ.*, Case No. 3:17-CV-231-WKW, 2017 U.S. Dist. LEXIS 74076 (M.D. Ala., April 18, 2017).

70 *Ibid.*, *3.

71 *Ibid.*, *3.

72 *Ibid.*, n. 1.

73 *Ibid.*, a*4–5.

74 *Ibid.*, *5 (quoting *Bible Believers v. Wayne Cty.*, Mich., 805 F.3d. 228, 255 (6th Cir. 2015)).

primarily intellectual and legal, and should be mainly viewed in the context of supporting the university as an intellectual and deliberative institution, not about protecting students from speech they may find uncomfortable or offensive.

In our judgment, students learn best from faculty members, administrators, and other campus officials who model appropriate ways of responding to objectionable speech. Offensive yet politically protected opinions, such as calling Israel an apartheid state, should be countered by offering better speech showing the fallacies of the analogy. Intolerant speech, including antisemitic statements, should be countered by directly calling out such speech for what it is. Although it may be an imperfect remedy, Justice Louis D. Brandeis’s famous admonition about countering bad speech with better speech remains powerfully relevant today: “If there be time to expose through discussion, the falsehoods and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence.”⁷⁵

75 *Whitney v. California*, 274 U.S. 357, 377 (1927) (Brandeis, J., concurring).

CHAPTER 6.

COMBATTING ANTI-JEWISH DISCRIMINATION ON CAMPUS: THE APPLICATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964¹

MICHAEL B. ATKINS

I ncreasingly in recent years, Jewish students on college and university campuses across the country have been testing whether the federal anti-discrimination law known as Title VI of the Civil Rights Act of 1964 (Title VI) can be used to help secure their rights to openly identify with and express support for Israel and Zionism. Between 2017 and 2020, Jewish students at San Francisco State University, Duke University, University of North Carolina (UNC), New York University (NYU), University of California—Los Angeles (UCLA), University of Illinois at Urbana-Champaign (UIUC), and Columbia University, among other campuses, filed complaints with the Office of Civil Rights (OCR) of the U.S. Department of Education (DoE) alleging that they faced discriminatory harassment in violation of Title VI because of their actual or perceived support for the State of Israel. In most of the cases, the complaints prompted OCR to investigate the allegations. In several instances, voluntary settlements were reached in which the universities agreed to undertake specific measures aimed at improving the climate on their campus for Jewish and all students.

As an organization that eschews litigation and “lawfare” in favor of approaches that prioritize education and training, AEN takes no formal position on efforts to apply Title VI on campus. However, because of the relevance to AEN’s mission, we believe that faculty members and university administrators should be knowledgeable both about the conduct that Title VI proscribes and about how the law has been interpreted and enforced on campus with respect to issues of Jewish identity, expression, and inclusion. University leaders and campus officials with responsibility for overseeing student life and equity, diversity, and inclusion matters are especially encouraged to familiarize themselves with Title VI so that they are able to identify and address any actual or potential violations appropriately.

Title VI provides that “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under

1 Portions of this essay draw on material that appears in Michael B. Atkins and Miriam F. Elman, “BDS as a Threat to Academic Freedom and Campus Free Speech in the United States,” *Michigan State International Law Review* (forthcoming).

any program or activity receiving Federal financial assistance.”² Notably, religion is not a protected class in the law.

Nearly all colleges and universities in the United States receive some federal government aid and, therefore, must comply with the requirements of Title VI.³ Most directly, Title VI makes it unlawful for universities to discriminate against students and others within their purview on campus on the basis of their “race, color, or national origin.”⁴ But the federal courts also have established that, under Title VI, universities have a duty not to create or tolerate a “hostile environment” for protected individuals on their campuses.

In the landmark case of *Davis v. Monroe County Board of Education*,⁵ the Supreme Court defined student-on-student hostile environment harassment as conduct “so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school.”⁶ By definition, this a high bar, requiring extreme and usually repetitive behavior that is so serious it would prevent reasonable students from receiving their education. Stated differently, to be legally punishable as harassment, students must be far more than simply rude or offensive; they must be actively engaged in a specific type of discrimination, as defined by law. Speech as well as conduct can constitute harassment, but it must be so serious, persistent, and directed to a person’s status as a member of a protected class that the law treats it as discriminatory behavior that constitutes a civil rights violation.⁷ Further, for a college or university

“Most directly, Title VI makes it unlawful for universities to discriminate against students and others within their purview on campus on the basis of their ‘race, color, or national origin.’⁴ But the federal courts also have established that, under Title VI, universities have a duty not to create or tolerate a ‘hostile environment’ for protected individuals on their campuses.”

2 See 42 U.S.C. § 2000d.

3 Ibid.

4 See generally Civil Rights at School: Agency Enforcement of Title VI of the Civil Rights Act of 1964 (Congressional Research Service), at 5-20 (summarizing the case law on defining, regulating, and enforcing unlawful discrimination under Title VI).

5 526 U.S. 629 (1999).

6 Ibid., p. 650 (“We thus conclude that funding recipients are properly held liable in damages only where they are deliberately indifferent to sexual harassment, of which they have actual knowledge, that is so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school.”). *Davis* was not a case of anti-Jewish harassment arising under Title VI, and it did not even take place in a university or college. *Davis* involved sexually harassing conduct in a public school in violation of the law commonly known as Title IX. However, the legal standard it established for peer-on-peer discriminatory harassment has been held to apply to other forms of discrimination in federal programs and activities, including ethnic-based discrimination in post-secondary education. See *Alexander v. Sandoval*, 532 U.S. 275, 280 (2001) (“Title IX ... was patterned after Title VI of the Civil Rights Act of 1964”); *Cannon v. Univ. of Chicago*, 441 U.S. 677, 695-96 (1979). See also Foundation for Individual Rights in Education, *Guide to Free Speech on Campus* (FIRE 2012), pages 91–95.

7 See, e.g., *FIRE, Guide to Free Speech on Campus*, *ibid.* But see Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance, 59 Fed. Reg. 11,448, 11,449 (Mar. 10, 1994). In this document, OCR issued guidance regarding the procedures and analysis that OCR staff should follow when investigating issues of racial

to violate Title VI, a responsible employee of the school must have known, or should have known, about the harassing conduct, and the school must have failed to take prompt and effective steps reasonably calculated to end the harassment, eliminate the hostile environment, prevent the harassment from recurring, and, as appropriate, remedy its effects.⁸

Unlike other federal civil rights laws—mostly notably, Title VII of the Civil Rights Act of 1964, which prohibits discrimination in employment—Title VI does not make it unlawful to discriminate on the basis of religion.⁹ However, the Department of Education’s OCR, which enforces Title VI on American university campuses,¹⁰ has for more than a decade interpreted Title VI to prohibit discrimination against members of certain religious groups when the discrimination is based on the members’ shared actual or perceived ethnicity, ancestry, or national origin.¹¹ In 2004, then Assistant Secretary for Civil Rights Kenneth Marcus authored a *Dear Colleague* guidance letter that provided in relevant part:

Groups that face discrimination on the basis of shared ethnic characteristics may not be denied the protection of our civil rights laws on the ground that they also share a common faith. . . . OCR will exercise its jurisdiction to enforce the Title VI prohibition against national origin discrimination, regardless of whether the groups targeted for discrimination also exhibit

incidents and harassment against students. In it, OCR used a standard for identifying hostile environment harassment that differs from the standard that the Supreme Court articulated in *Davis* five years later. Under OCR’s harassment standard, the DoE will find a Title VI violation if the institution “has created or is responsible for a racially hostile environment—i.e., harassing conduct (e.g., physical, verbal, graphic, or written) that is sufficiently severe, pervasive or persistent so as to interfere with or limit the ability an individual to participate in or benefit from the services, activities or privileges provided by a recipient.” *Ibid.* OCR’s standard appears to differ from the Court’s *Davis* standard in two significant ways. First, in defining the severity of the conduct, OCR’s construction—“severe, pervasive *or* persistent” (emphasis added)—is more lenient than the Court’s “severe, pervasive, *and* objectively offensive” requirement (emphasis added). Second, OCR’s guidance that the harassing conduct must “interfere with or limit the ability” of the student to participate or benefit from the activities and services of the institution is arguably more lenient than the standard set by the Court in *Davis*. As of this writing, the 1994 OCR guidance remains accessible on the DoE’s public website. <https://www2.ed.gov/about/offices/list/ocr/docs/race394.html>.

- 8 See U.S. Department of Education, Office for Civil Rights, *Know Your Rights: Title VI and Religion*, [OCR-00106], available at <https://www2.ed.gov/about/offices/list/ocr/docs/known-rights-201701-religious-disc.pdf>; see also *Davis, supra*.
- 9 In omitting religious-based discrimination from the protections of Title VI, Congress was likely motivated by concerns that religiously identified institutions be able to privilege their co-religionists in the admission of students, employment, and certain other decisions. See *Anti-Zionism as Racism: Campus Anti-Semitism and the Civil Rights Act of 1964*, Kenneth Marcus, 15 Wm. & Mary Bill of Rts. J. 837, 877–882 (discussing at length the legislative history on this point; citations and quotations omitted).
- 10 Under the Civil Rights Restoration Act of 1987, Pub. L. 100–259; 102 Stat. 28, OCR has institution-wide jurisdiction over a university that receives federal funds. Title VI further authorizes and directs OCR to issue rules, regulations, and orders of general applicability in order to effectuate the provisions of Title VI. 42 U.S.C. § 2000d-1. To achieve compliance, OCR and other agencies authorized to extend federal grant monies are empowered to seek “termination of or refusal to grant or to continue [financial] assistance... to any recipient as to whom there has been an express finding on the record, and after opportunity for hearing, of a failure to comply such requirement.” *Ibid.*
- 11 See Letter from Kenneth L. Marcus, Deputy Assistant Sec’y for Enf’t, to Colleague (Sept. 13, 2004), available at <https://www2.ed.gov/about/offices/list/ocr/religious-rights2004.html>; Thomas E. Perez, Assistant Attorney Gen., Letter to Russlynn H. Ali, Assistant Sec’y of Educ. For Civil Rights (Sept. 8, 2010), available at https://www.justice.gov/sites/default/files/crt/legacy/2011/05/04/090810_AAG_Perez_Letter_to_Ed_OCR_Title_VI_and_Religiously_Identifiable_Groups.pdf

religious characteristics. Thus, for example, OCR aggressively investigates alleged race or ethnic harassment against Arab Muslim, Sikh and Jewish students.”¹²

The guidance letter, which is not binding on the federal courts, makes clear that students who face discrimination on account of their national origin or race—classes expressly covered by Title VI—do not forfeit the protections of the law merely because they also share a common religious faith. Consider, for example, that Islamophobia—defined as “irrational fear of, aversion to, or discrimination against Islam or people who practice Islam,” i.e., Muslims¹³—can manifest as intolerance toward Arabs, an ethnic group whose members are largely Muslim. Thus, a college or university that were to turn a blind eye to severe and persistent harassing conduct directed at Arab Muslim students could potentially run afoul of Title VI even though the students subjected to the harassment share a common religious faith.

In 2010, the U.S. Department of Justice weighed in with its own guidance letter on ethnic-based discrimination under Title VI. Agreeing with OCR’s analysis, then Assistant Attorney General Thomas E. Perez wrote:

Although Title VI does not prohibit discrimination on the basis of religion, discrimination against Jews, Muslims, Sikhs, and members of other religions violates Title VI when that discrimination is based on the group’s actual or perceived shared ancestry or ethnic characteristics, rather than its members’ religious practice. Title VI further prohibits discrimination against an individual where it is based on actual or perceived citizenship or residency in a country whose residents share a dominant religion or distinct religious identity.¹⁴

As important as these guidance letters were in establishing that Jewish students could seek protection under Title VI, the clearest signal to that effect came in December 2019, when then-President Trump issued an *Executive Order on Combating Antisemitism* (hereafter, the “EO”).¹⁵ The EO stated that in enforcing Title VI, all responsible executive agencies “shall consider” the non-legally binding working definition of antisemitism issued by the International Holocaust Remembrance Alliance (IHRA) as well as the contemporary examples of antisemitism accompanying the IHRA definition, “to the extent ... [they] might be useful as evidence of discriminatory intent.”¹⁶

IHRA, an intergovernmental organization, issued its definition of antisemitism in 2016.¹⁷ It provides the following: “Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.”¹⁸ Accompanying the IHRA

12 Marcus, *Dear Colleague* Letter (2004; emphasis added).

13 Miriam Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/Islamophobia>.

14 Perez, *Dear Colleague* letter (2010).

15 Exec. Order No. 13899; Executive Order on Combating Anti-Semitism, The White House (Dec. 11, 2019) <https://www.federalregister.gov/documents/2019/12/16/2019-27217/combating-anti-semitism>.

16 Exec. Order No. 13899, sections 2(a)(i) & (ii).

17 Working Definition of Antisemitism, International Holocaust Remembrance Alliance <https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-antisemitism?focus=antisemitismandholocaustdenial>.

18 Ibid.

definition is a list of examples illustrating contemporary manifestations of antisemitism.¹⁹ The examples recognize traditional and classical tropes and canards about Jews as well as more modern manifestations of antisemitism, including those involving the delegitimization and demonization of, and the application of a double standard to, the State of Israel.²⁰ Central to the Israel-related examples in IHRA is a recognition that Jews are a people deserving of self-determination and that denying this right due to an irrational fear or hatred of the very concepts of Jewish peoplehood and a Jewish homeland is a contemporary example of antisemitism.²¹

The EO immediately stirred debate, some of it intense.²² Critics charged, among other things, that by requiring federal agencies to consider IHRA in applying Title VI, the EO would have the effect, if not the intent, of stifling protected pro-Palestinian and anti-Zionist speech.²³ Others worried about the effects

“Central to the Israel-related examples in IHRA is a recognition that Jews are a people deserving of self-determination and that denying this right due to an irrational fear or hatred of the very concepts of Jewish peoplehood and a Jewish homeland is a contemporary example of antisemitism.”

19 Ibid.

20 Ibid.

21 Bernard Harrison, “Israel and Antisemitism,” *Journal of Contemporary Antisemitism* (Vol. 2, No. 1: Spring 2019): 19–28; Leslie Klaff and Bernard Harrison, “Why Facebook must adopt IHRA,” *The JC*, October 16, 2020 at <https://www.thejc.com/comment/opinion/why-facebook-must-adopt-ihra-1.507619>. In 2010, the U.S. State Department adopted this definition, which includes the so-called “3 Ds” of demonizing, delegitimizing, and applying double standards to Israel. U.S. Dep’t of State, Office of Int’l Religious Freedom, “Defining Anti-Semitism,” <https://www.state.gov/defining-anti-semitism>. See also Natan Sharansky, “Why BDS Fails My 3D Test on anti-Semitism,” *Newsweek* (Sept. 25, 2019), <https://2017-2021.state.gov/defining-anti-semitism/index.html>. For more on the IHRA working definition of antisemitism, see the essay by Raaefa Shams, “Antisemitism and anti-Zionism” (Chapter 3 in this Guide and Resource Book).

22 See, e.g., David Schraub, “Why Trump’s Executive Order on Anti-Semitism Touched Off a Firestorm,” *The Atlantic* Dec. 12, 2019.

23 See, e.g., David Cole, ACLU COMMENT ON PRESIDENT TRUMP’S EXECUTIVE ORDER ON COMBATING ANTI-SEMITISM (Dec. 11, 2019) (“If the order were interpreted to [equate speech criticizing Israel with unlawful discrimination], it would be unconstitutional. Speech criticizing the Israeli government, or any government, is political speech protected under the First Amendment, and cannot be suppressed. Agencies are permitted to consider such speech as evidence of discriminatory intent—but not to prohibit it.”); Frederick P. Schaffer, “Title VI, Anti-Semitism, and the Problem of Compliance,” 46 *J. Coll. & Univ. Law* 1, 72 (2021). Schaffer posits that although much will depend on how the Department of Education applies the EO in practice, by relying on the IHRA examples that view certain criticisms of Israel as antisemitic, its enforcement is likely to result in the suppression of “core political speech” protected by the First Amendment. *Ibid.*, p. 87. See also Kenneth Stern, “I drafted the definition of antisemitism. Rightwing Jews are weaponizing it,” *The Guardian* (Dec. 13, 2019), at <https://www.theguardian.com/commentisfree/2019/dec/13/antisemitism-executive-order-trump-chilling-effect>. BDS advocates have also long argued against the IHRA working definition of antisemitism on the grounds that it would chill protected political speech due to its “conflation” of criticism of Israel and Zionism with antisemitism, especially if applied on college campuses. See, e.g., Barry Trachtenberg and Kyle Stanton, “Current Issues in Depth: Shifting Sands: Zionism & American Jewry,” *Institute for Palestine Studies* (Washington, DC: 2019).

that the EO could have on perceptions of Jewish identity in America because of the way the EO seemed to embrace a definition of Jews as an ethnic or racial—rather than religious—group, at least for purposes of federal antidiscrimination law.²⁴

AEN has not taken a formal position on either the Executive Order or on the use of the IHRA definition on U.S. campuses. AEN members hold diverse views on how to define and understand antisemitism and on the role that the IHRA definition should play. As leaders of AEN, we view the IHRA definition as a useful educational tool for students and others to understand historical and contemporary manifestations of antisemitism, but we do not support its adoption as a formal speech code on campus. On this point, it is worth noting that in the context of the EO, not all of the IHRA's examples will necessarily evidence antisemitic intent; rather, each incident must be considered in context and in view of all of the circumstances. By way of example, drawing comparisons between Israeli government policy and that of Nazi Germany in the 1930s and 1940s, or expressing the view that the Jewish people should not have the right to self-determination—two of the contemporary manifestations of antisemitism according to the IHRA²⁵—may be deeply offensive to Jews (and others) but they constitute protected speech and will not, standing alone, trigger Title VI liability.

The EO is likely to accelerate the trend of Title VI complaints being filed with OCR that allege shortcomings on the part of university leaders to address persistent and severe harassment of Jewish and pro-Israel students.²⁶ As noted earlier,²⁷ in recent years complaints were filed on behalf of Jewish students at Duke University,²⁸

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- 24 Some of the early criticism to this effect appeared to be based on erroneous reporting about what the EO actually said with regard to defining Jews as a “race.” In any event, citing Supreme Court precedent, legal scholars have argued that placing a group within a racial category for purposes of civil rights protection “does not require us to endorse the idea that the group is racially distinct. . . . Just as African-Americans qualify for protection from racial discrimination even though the very idea of race is based on pseudoscience, anti-Semitism can be racism for legal purposes even though Jewishness cannot be reduced to racial terms.” Daniel Hemel, “Trump’s Executive Order Has Firm Legal Grounding,” *The New York Times* (Dec. 12, 2019; discussing *Shaare Tefila Congregation v. Cobb*, 481 U.S. 615 (1987)).
- 25 Working Definition of Antisemitism, International Holocaust Remembrance Alliance, <https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-antisemitism?focus=antisemitismandholocaustdenial>.
- 26 Of course, the EO could be revoked by federal executive action. Thus far, however, the Biden administration has given no indication that it intends to revoke or supplant the EO. On February 2, 2021, the administration announced that it “embraces and champions” the IHRA definition, although the statement did not speak to the EO specifically. See Jacob Magid, “Biden administration ‘embraces and champions’ IHRA definition of anti-Semitism,” *The Times of Israel* (Feb. 2, 2021), available at https://www.timesofisrael.com/liveblog_entry/biden-administration-embraces-and-champions-ihra-definition-of-anti-semitism/.
- 27 OCR enforces Title VI primarily through its investigations and resolution of complaints. See Civil Rights at School: Agency Enforcement of Title VI of the Civil Rights Act of 1964, Congressional Research Service (Apr. 4, 2019), p. 17, *supra* Note 68. See also OCR Case Processing Manual (setting forth the procedures by which OCR receives, analyzes, and disposes of allegations under Title VI and other statutes within its jurisdiction). Private parties, including students, may also file an action in court to enforce Title VI, though the Supreme Court has circumscribed the types of discrimination that are actionable; see *Alexander v. Sandoval*, 532 U.S. 275, 285 (2001; holding that while private individuals may sue to enforce § 601 of Title VI and obtain both injunctive relief and damages, disparate impact claims are not actionable). In addition, the Department of Justice is authorized to enforce Title VI’s requirements in the federal courts.
- 28 Zionist Organization of America letter in support of Title VI claims regarding Duke University and University of North Carolina (Apr. 17, 2019), <https://zoa.org/wp-content/uploads/2019/04/Letter-to-Kenneth-Marcus-re-UNC-Duke-Gaza-conference-4-17-19.pdf>; Office for Civil Rights letter to ZOA in response to Title VI complaint (Dec. 10, 2019), <https://zoa.org/wp-content/uploads/2019/12/OCR-Resolution-Letter-to-ZOA-12-10-19.pdf>.

University of North Carolina–Chapel Hill,²⁹ New York University,³⁰ and several other campuses.³¹ The allegations in the complaints vary from campus to campus. At Duke and North Carolina, for example, the complaint to OCR centered around events that occurred at an academic conference in March 2019 that was co-sponsored by the Duke/UNC Consortium for Middle East Studies.³² Titled “Conflict over Gaza: People, Politics and Possibilities,” the conference allegedly displayed a clear anti-Israel bias, including by featuring speakers who openly demonized Israel for its role in the humanitarian crisis in Gaza and by failing to

“The complaint charged that by failing to forcefully and unequivocally condemn the antisemitic hate speech voiced at the conference, UNC and Duke had essentially legitimized and normalized it.”

include on the program scholars who could have provided important context and offered competing viewpoints and perspectives.³³ The conference also featured what the complaint described as a highly offensive and overtly antisemitic musical performance.³⁴ Further, swastikas and antisemitic posters were later discovered on the UNC campus.³⁵ The complaint charged that by failing to forcefully and unequivocally condemn the antisemitic hate speech voiced at the conference, UNC and Duke had essentially legitimized and normalized it.³⁶

In the case of NYU, a detailed complaint³⁷ filed with OCR in April 2019 pointed to multiple incidents over a two-year period in which students were allegedly harassed based on their shared Jewish ancestry. The

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- 29 Zionist Organization of America letter in support of Title VI claims regarding Duke University and University of North Carolina (Apr. 17, 2019), <https://zoa.org/wp-content/uploads/2019/04/Letter-to-Kenneth-Marcus-re-UNC-Duke-Gaza-conference-4-17-19.pdf>; Office for Civil Rights letter to ZOA in response to Title VI complaint (Nov. 6, 2019), <https://zoa.org/wp-content/uploads/2019/11/OCRs-resolution-letter-to-ZOA-11-6-19.pdf>.
- 30 See Aaron Bandler, “Education Department to Investigate NYU’s Handling of Campus Anti-Semitism,” *Jewish Journal* (Nov. 15, 2019).
- 31 See Aaron Bandler, “Department of Education to Investigate StandWithUs Complaint Against UCLA,” *Jewish Journal* (Jan. 9, 2020); Greta Anderson, “U of Illinois, Jewish Groups Reach Resolution,” *Inside Higher Ed* (Nov. 17, 2020); Jenny Fink, “Williams College Investigated for Alleged Civil Rights Violation After Students Vote Against Pro-Israel Group,” *Newsweek* (June 4, 2019). The Williams College complaint did not allege that university administrators had tolerated a hostile environment for Jewish students. Rather, it charged that the refusal by the College Council (CC) to recognize the Williams Initiative for Israeli (WIFI) as a student organization on the same terms as the CC has recognized dozens of other student groups, and the continued non-recognition, constituted discrimination against Jewish students on the basis of ethnicity or race. David Bernstein, Letter in support of Title VI complaint (May 2, 2019), on file at AEN.
- 32 See Zionist Organization of America letter in support of Title VI claims regarding Duke University and University of North Carolina (Apr. 17, 2019), <https://zoa.org/wp-content/uploads/2019/04/Letter-to-Kenneth-Marcus-re-UNC-Duke-Gaza-conference-4-17-19.pdf>.
- 33 Ibid.
- 34 Ibid.
- 35 Ibid.
- 36 Ibid.
- 37 See Complaint filed on behalf of Adela Cojab (Apr. 22, 2019), available as image at Aaron Bandler, “Pro-Israel Students File Complaint Against NYU,” *Jewish Journal*, (Apr. 24, 2019), <https://jewishjournal.com/news/united-states/297574/pro-israel-students-file-complaint-against-nyu/>.

allegedly harassing conduct centered around actions taken by the local chapter of Students for Justice in Palestine (SJP), a pro-Palestinian campus student group. The complaint charged, for example, that in the Spring of 2018, SJP tried to shut down a “Rave in the Park” celebration of Israel’s 70th birthday, which had been organized by a campus pro-Israel student group. Members of SJP reportedly encouraged passersby to file a noise complaint; in addition, they allegedly wiped their feet and stomped on an Israeli flag. One member of SJP reportedly set an Israeli flag on fire, and another forcibly seized a microphone from a pro-Israel student, causing injuries. In terms of the university’s response, the complaint acknowledged that NYU’s leadership had taken some positive actions, including rejecting calls for the university to divest from Israel-related investments and to shutter NYU’s campus in Tel Aviv. But the complaint faulted the NYU administration for not condemning the actions of SJP and its members and for implicitly sanctioning them by awarding the group a presidential service award.³⁸

The investigations at Duke, UNC, and NYU were each resolved through voluntary settlement agreements, while OCR’s investigations at UCLA and UIUC remain open as of this writing.³⁹ In the case of Duke, the settlement agreement⁴⁰ requires Duke to “affirm and bolster [its] commitment” to addressing harassment and discrimination by instituting several measures, including (1) agreeing to issue a more robust public statement that it does not tolerate acts of discrimination or harassment, including antisemitic harassment; (2) revising its campus antidiscrimination policy to include, among the prohibited forms of discrimination, harassment based on antisemitism in any of its modern manifestations; and (3) including a training module on antisemitism and antisemitic harassment as a component of any training it offers to, or requires of, students, faculty, and staff in connection with the revised antidiscrimination policy.⁴¹

The University of North Carolina settlement closely mirrors the Duke resolution.⁴² UNC agreed, among other things, to publicly reiterate its commitment to ensuring that antisemitic harassment and discrimination will not be tolerated; strengthen its antidiscrimination policy to include antisemitism; and require that diversity and inclusion trainings for students, faculty, and staff include a section on how to avoid and respond to antisemitism on campus.⁴³ Neither Duke nor UNC admitted any fault or liability under Title VI.

38 Ibid.

39 Regarding UIUC, the complaint filed with OCR on behalf of Jewish and pro-Israel students charges that the administration at UIUC has failed to adequately respond to and address pervasive anti-Jewish harassment and discrimination on campus. The complaint was filed in March 2020 and made public on October 23, 2020. See Greta Anderson, “Jewish Students Claim Civil Rights Violations,” *Inside Higher Ed*, October 26, 2020 at <https://www.insidehighered.com/news/2020/10/26/jewish-students-university-illinois-allege-anti-semitic-environment>; The Louis D. Brandeis Center for Human Rights Under Law, “University of Illinois Jewish Students File Complaint With U.S. Department of Education,” October 23, 2020 at <https://brandeiscenter.com/university-of-illinois-jewish-students-file-complaint-with-u-s-department-of-education/>.

40 See Duke University Resolution Agreement (Dec. 3, 2019), available at <https://zoa.org/wp-content/uploads/2019/12/Duke-Resolution-Agreement-with-OCR-12-3-19.pdf>.

41 Ibid.

42 UNC Resolution Agreement (Oct. 14, 2019): <https://zoa.org/wp-content/uploads/2019/11/OCR-Resolution-Agreement-Complaint-No.-11-19-2215.pdf>.

43 Ibid.

New York University and OCR entered into a settlement in September 2020.⁴⁴ As with the Duke and UNC resolutions, NYU disclaimed any fault or liability under Title VI. Under the settlement, NYU agreed to issue a robust public statement against antisemitism, update its nondiscrimination and anti-harassment policy to include discrimination against Jews based on shared ethnicity and ancestry, and include antisemitism awareness training as a required component of training modules given to students, faculty, and staff.⁴⁵ NYU also agreed to host multiple town hall meetings with community members and to meet with Jewish student community and group leaders regarding the university's commitment and actions to address antisemitism on campus.⁴⁶ Notably, the NYU resolution also references the IHRA definition and the EO. Specifically, regarding the revision of its anti-harassment and anti-discrimination policy, NYU agreed to "include a statement that the University prohibits discrimination on the bases of shared ancestry and ethnic characteristics, including antisemitism (as defined in Section (2)(a)(i) of the Executive Order . . .)"⁴⁷ In addition, the NYU agreement notes that the training modules to be developed may incorporate the IHRA illustrative examples of antisemitism as referenced in the EO.⁴⁸

The voluntary resolution agreements that Duke, UNC, and NYU entered into with OCR suggest to us that leaders of these institutions take seriously the charge that their campuses have become a hostile environment for Jewish students. By agreeing to issue robust university-wide statements condemning antisemitism and other forms of hate, revise campus antidiscrimination policies and develop antisemitism awareness training, these university leaders have signaled their desire to foster and maintain a healthy and inclusive campus environment. The commitment that these universities have made to addressing antisemitism proactively through required, ongoing educational programming and training is an especially salutary development.⁴⁹

44 NYU Resolution Agreement (Sept. 15, 2020), available at <https://jewishinsider.com/wp-content/uploads/2020/09/NYU-OCR-Resolution-Agreement-9-25-20-With-Watermark.pdf>.

45 Ibid.

46 See *ibid.*, pp. 2–3.

47 Ibid., p. 1.

48 Ibid., p. 4. At the time of this writing, it is unclear whether NYU will incorporate the IHRA definition of antisemitism in full within its revised nondiscrimination and anti-harassment policies. A spokesperson for the university recently noted that while NYU agreed to adopt the core definition of IHRA, it will delineate its "own examples" while also affirming in a statement its "long-held commitment to academic freedom and free speech." See Kery Murakami, "NYU Settles Anti-Semitism Case," *Inside Higher Ed*, October 2, 2020 at <https://www.insidehighered.com/news/2020/10/02/new-york-university-settles-anti-semitism-case-education-department>. However, in a separate paragraph in the agreement, NYU acknowledges that "[it] has advised OCR" that in academic year 2020–21, NYU's Center for Multicultural Education and Programs (CMEP) and the Bronfman Center [NYU Hillel] will partner "to develop a training module based on the [nondiscrimination and anti-harassment policy] and including section 2(a)(i) of Exec. Order No. 13899 and Title VI with respect to anti-Semitism."). Thus, while NYU may ultimately not revise its nondiscrimination and anti-harassment policies to include the IHRA definition in its entirety, NYU's training materials will likely present the complete IHRA working definition, including its identified contemporary examples of antisemitism.

49 As noted in the essay by Naomi Greenspan in this *Guide and Resource Book*, pp. 130. AEN and Hillel International have launched new initiatives aimed at improving the campus climate for students by assisting officials and staff to better understand contemporary antisemitism and appreciate the needs and concerns of the campus Jewish community. As of this writing, some 10 to 15 campuses will participate in these pilot programs during the 2020 to 2021 academic year. See "New initiatives join forces to battle anti-Semitism on college campuses," *JNS*, October 29, 2020 at <https://www.jns.org/new-initiatives-join-forces-to-battle-anti-semitism-on-college-campuses/>.

CHAPTER 7.

THE IMPACT OF THE ANTI-ISRAEL MOVEMENT ON THE CAMPUS ENVIRONMENT: EVENT DISRUPTIONS¹

SPENCER KENT

In recent years, student groups allied with the Boycott, Divestment, and Sanctions (BDS) movement have shown a disturbing willingness to embrace the physical disruption of events featuring speakers associated with Israel.² BDS supporters have participated in aggressive acts of public interference, employing the “heckler’s veto” (see chapter 5 in this volume) to prevent and shut down free speech and assembly by others. This tactic of disruption, which is part of the BDS movement’s broader strategy of “anti-normalization,”³ violates core tenets of academia and often has negative campus-wide impacts, even when the disruption itself directly affects relatively few students. In such encounters, Zionists and Israel supporters have been openly depicted as colonialists, racists, and even Nazis. As well, the complex Israeli-Palestinian conflict has been oversimplified and reduced to sound bites, slogans, and offensive signs and banners. The effect of these disruptive actions, if not their intent, is to deny fellow students, faculty members, and staff the opportunity to participate fully in campus conversations about Israel and related topics. Jewish and Zionist students especially are left feeling marginalized and less free to engage with their peers on matters of personal and national importance.

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- 1 Portions of this essay draw on material in *Academic Freedom, Freedom of Expression, and the BDS Movement: A Guide and Resource Book for University Leaders* (Academic Engagement Network, 2016), pp. 31–33, and *Academic Freedom, Freedom of Expression, and the BDS Challenge: A Guide and Resource Book for Faculty* (Academic Engagement Network, 2017), pp. 46–51.
 - 2 This essay focuses primarily on disruptions of Israel-themed events and events featuring Israeli or pro-Israel speakers from 2018 to the present. For a more complete discussion of disruptions that occurred prior to 2018, refer to *Academic Freedom, Freedom of Expression, and the BDS Challenge: A Guide and Resource Book for Faculty*, supra note 1, at pp. 46–51.
 - 3 For more information on anti-normalization tactics that lead to the silencing of pro-Israel or Israeli speakers, see Cary Nelson and David Greenberg, “Students are shouting down pro-Israel speakers—and silencing free speech,” *Washington Post*, December 7, 2016 at https://www.washingtonpost.com/opinions/students-are-shouting-down-pro-israel-speakers--and-silencing-free-speech/2016/12/07/9211c3b8-bbd7-11e6-91ee-1adddfe36cbe_story.html?utm_term=.e4f68dd1b0aa.

Disruption of Israel-related speakers and events is sometimes framed by those engaging in the disruptive behavior as an exercise of their freedom of speech.⁴ On this issue, however, the Academic Engagement Network (AEN) is adamant: no right exists for anyone on campus to shut down the free speech of others. Nothing is more threatening to the university as a “free and ordered space”⁵ for intellectual life than the license some groups think they have to proscribe speech. An academic department or student group sponsoring a university-approved event, even in cases in which the content is highly controversial and offensive, must be confident in the expectation that the university will ensure that the event will be held, that the event will not be disrupted or prevented by those holding opposing views, and that the speaker will have a chance to make a case and state one’s views openly and without interference.

Since the early 2010s, there has been a noticeable shift from peaceful and silent protest to aggressive disruptions meant to interrupt and intimidate, targeting Israeli politicians, diplomats, faculty members, and average citizens who had been invited to speak on campus. In February 2010, for example, the Israeli ambassador to the United States, Michael Oren, was disrupted at the University of California at Irvine (UC Irvine). Ten students from the University of California at Irvine and Riverside were found guilty of planning and carrying out the disruption, and the Muslim Student Association at the University of California at Irvine was briefly suspended. In 2013, Israeli criminologist (and later Knesset member) Anat Berko had a speech at the University of Florida interrupted by students yelling, “Hamas is not the problem, the occupation is” and “The IDF kills women and children.” That same year, during two separate events at George Mason University, organized walkouts were conducted during speeches given by Israeli businesswoman Shari Arison and Israeli Defense Forces (IDF) Sergeant Anthony Benjamin. In 2014, an event titled “Israeli Soldier Stories” was interrupted by protestors at Cal Poly-Pomona. In 2015, at UC Irvine, former Israeli Supreme Court Justice Aharon Barak was forced to cut a speaking event short and had to be escorted out under police protection due to disruptions from protestors in the audience.

These aggressive disruptions have continued in recent years. In February 2016, noted Palestinian human rights activist Bassam Eid was prevented from delivering talks at the University of Chicago and at Northwestern University, respectively, presumably as a consequence of his public opposition to the BDS movement. In March 2016, Israeli-Arab Foreign Service Officer George Deek was disrupted while attempting to give a speech at the University of California at Davis. In late April 2016, Nir Barkat, who was then the mayor of Jerusalem, was prevented from addressing his audience at a scheduled talk at San Francisco State University (SFSU) as a result of physically disruptive actions led by a pro-Palestinian campus student group.⁶

In 2017, Hen Mazzig, a gay IDF veteran, was shouted down during a scheduled talk at the University of Illinois, Urbana-Champaign. Protestors chanted, “from the river to the sea, Palestine will be free” while holding signs that said, “fascists off our campus.”⁷ Two years later, during a talk at Vassar College, protestors

4 For a critique of the framing of disruption as an exercise of freedom of speech, see Mark G. Yudof, “Anti-Semitism and Junk Constitutional Law,” *Times of Israel*, April 1, 2016 at <http://blogs.timesofisrael.com/anti-semitism-and-junk-constitutional-law/>.

5 See A. Bartlett Giamatti, *A Free and Ordered Space: The Real World of the University* (W.W. Norton 1988)

6 A report in September 2016 was critical of the ways that SFSU reacted to the protests at Barkat’s earlier appearance. Barkat scheduled a return visit to the SFSU campus in April 2017 but cancelled a few days prior to this talk, complaining that the university had failed to appropriately publicize the event. See Michael Barba, “Jerusalem mayor cancels visit to SFSU, accuses college of suppressing Jewish voice,” *San Francisco Examiner*, April 5, 2017 at <http://www.sfexaminer.com/jerusalem-mayor-cancels-visit-sfsu-planning-concerns/>.

7 Andrew Minik, “Pro-Palestine Students Shout Down Openly Gay Israeli Vet,” *Campus Reform*, November 16, 2017 at <https://www.campusreform.org/?ID=10163>.

again interrupted Mazzig's presentation with the same chant.⁸ Mazzig attempted to engage with the protestors, but they refused to respond and continued to prevent him from speaking uninterrupted to the assembled audience.

In April 2018, when Dani Dayan, Israel's former consul general to New York, was invited to speak at Syracuse University, protestors—many of whom were not students at Syracuse—staged an organized disruption of the presentation. Off-campus activists from the group Code Pink joined with student protestors in an effort to drown out Dayan as he attempted to speak to an audience of nearly 100.⁹ A campus administrator overseeing the event invited the protestors to ask Dayan questions at the conclusion of his talk, but they declined the opportunity. Some of the protestors stood up during the talk, unfurled a banner, and began to shout over Dayan. Campus security eventually escorted the protestors out of the event hall.¹⁰ However, outside of the event hall, loud yelling and chanting continued until security removed the leader of the Code Pink group from the premises.¹¹ Only after a 20-minute disruption was Dayan able to deliver his talk.¹²

In October 2019, former Israeli Foreign Minister and peace negotiator Tzipi Livni was shouted down and interrupted by hecklers during a scheduled talk at Duke University. Holding up large posters allegedly of Palestinian civilians killed in the course of the Israeli-Palestinian conflict, protesters who were seated in the general audience shouted and chanted slogans, including “Livni you can't hide, we charge you with genocide.”¹³ They then yelled “shame” as they loudly exited the auditorium.¹⁴

Also, in October 2019, Harvard University Professor Emerita Ruth Wisse was shouted at and interrupted while delivering a guest lecture on antisemitism at Bard College. Part of what was so disturbing in this case is the way that the disruption was handled. Batya Ungar-Sargon, who moderated the event with Dr. Wisse, wrote in *The Forward* that she was told by organizers prior to the event that “security officers were not allowed to remove the students” even if they disrupted the event.¹⁵ If Ms. Ungar-Sargon's account can be substantiated, then the organizers of the event are responsible for creating a situation in which any student could, in effect, exercise a “heckler's veto” (see chapter 5 in this volume) of Professor Wisse's talk. When Wisse's speech was, in fact, interrupted, a conference organizer walked on to the stage and said, “we will ask them to move to the

8 Aaron Bandler, “SJP Protesters Chant ‘From the River to the Sea Palestine Will be Free’ during Hen Mazzig speech,” *Jewish Journal*, November 15, 2019 at <https://jewishjournal.com/news/united-states/307197/sjp-protesters-chant-from-the-river-to-the-sea-during-hen-mazzigs-speech-at-vassar-college>.

9 Shiri Moshe, “Students, Activists Disrupt Talk by Israeli Ambassador at Syracuse University,” *The Algemeiner*, April 25, 2018 at <https://www.algemeiner.com/2018/04/25/students-activists-disrupt-talk-by-israeli-ambassador-at-syracuse-university>.

10 Peter Wood, “Letter to Syracuse University Chancellor on Ambassador Dayan Event,” *National Association of Scholars*, May 8, 2018, https://www.nas.org/blogs/article/letter_to_syracuse_university_chancellor_on_ambassador_dayan_event

11 Ibid.

12 Prior to the disruption of the event, protestors stood outside the building with signs that condemned Zionism as a form of “racism” and “white supremacy.” It is unclear whether the protestors realized that Dani Dayan is Hispanic.

13 Aaron Bandler, “Protesters Disrupt Former Israeli Foreign Minister's Duke Speech,” *Jewish Journal*, October 24, 2019 at <https://jewishjournal.com/news/united-states/306141/protesters-disrupt-former-israeli-foreign-ministers-duke-speech>.

14 Ibid.

15 Batya Ungar-Sargon, “I was protested at Bard College for being a Jew,” *The Forward*, October 12, 2019 at <https://forward.com/opinion/433082/i-was-protested-at-bard-college-for-being-a-jew>.

side”—as though allowing the protestors to scream and interrupt the talk from a different spot in the room would somehow resolve the problem.¹⁶ Unsurprisingly, the disruptions continued. Ungar-Sargon writes that the organizers were eventually able to “usher the students out,” but only once “they chanted so loudly that we [the discussion panel] couldn’t proceed.”¹⁷ Had a better security plan been put in place, it is likely that the organizers would have been able to deal with the attempted disruption more effectively.

The disruption of Professor Wisse’s talk is notable for a separate reason, as well. Foreshadowing what would become a disturbing feature of some future event disruptions, the protestors at Bard shouted anti-Israel and anti-Zionist invectives even though Professor Wisse’s talk, entitled “Who Needs Anti-Semitism?,” was ostensibly unrelated to Israel or Zionism.¹⁸

When Emory University Professor and AEN Advisory Board member Deborah Lipstadt spoke at the University of California, Berkeley in February 2020, a group of protestors commandeered the stage and held signs condemning the state of Israel while Lipstadt was attempting to speak.¹⁹ As with the lecture at Bard several months before it, Professor Lipstadt’s talk at UC Berkeley was not focused on Israel or Zionism (the lecture was about present-day antisemitism). One of the protestors who stormed the stage held a sign that read “Anti-Zionism ≠ Anti-Semitism.”²⁰

16 Link to video recording of the event: <https://totalwebcasting.com/view/?func=VOFF&id=bard&date=2019-10-10&seq=1>.

17 Batya Ungar-Sargon, “I was protested at Bard College for being a Jew”, *The Forward*, October 12, 2019, at <https://forward.com/opinion/433082/i-was-protested-at-bard-college-for-being-a-jew>.

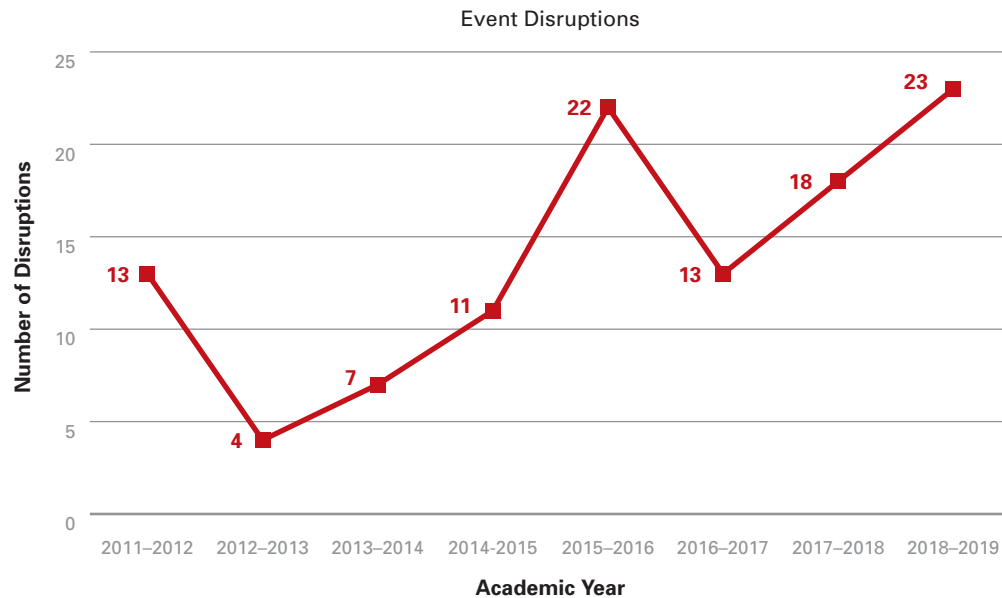
18 Ruth Wisse, “Save Me from My Defenders!,” *Commentary Magazine*, January 2020 at <https://www.commentarymagazine.com/articles/ruth-wisse/anti-semitism-conference-bard-college>.

19 Aaron Bandler, “Protesters Hold Signs Criticizing Israel During Holocaust Scholar’s Anti-Semitism Lecture,” *Jewish Journal*, February 19, 2020, at <https://jewishjournal.com/news/united-states/310907/protesters-hold-signs-criticizing-israel-during-holocaust-scholars-anti-semitism-lecture/>.

20 Benjamin Kerstein, “Anti-Israel Protesters Disrupt Talk by Renowned Holocaust Scholar Deborah Lipstadt at UC Berkeley,” *The Algemeiner*, February 17, 2020 at <https://www.algemeiner.com/2020/02/17/anti-israel-protesters-disrupt-talk-by-renowned-holocaust-scholar-deborah-lipstadt-at-uc-berkeley>.

CONCLUSION

DISRUPTIONS OF PRO-ISRAEL CAMPUS EVENTS (2011–2019)



As the accompanying chart illustrates, the number of disruptions annually of what the Israel on Campus Coalition defines as “pro-Israel” campus events (which includes, but is not limited to, pro-Israel speaking events) generally trended upwards from 2011 to 2019.²¹ While there are multiple explanations for this trend, students who disrupt speaking events in violation of university rules or policies should be held accountable for their actions. If students are able to deny or restrict others’ freedom of speech without consequence, others may be encouraged to engage in similarly disruptive conduct.

When anti-Israel protestors disrupt an Israel-related event or speaker, they can succeed in their goals of silencing Jewish and Zionist voices and stifling the dissemination of ideas they disagree with even when they fail to shut down or cancel the targeted event. It is often said that “the worst form of censorship is self-censorship.”

21 This chart comes from page 5 of *Israel on Campus Coalition 2019 Campus Trends Report* at <https://israelcc.org/wp-content/uploads/2019/11/ICC-2019-Campus-Trends-Report.pdf>.

To be sure, on-campus protest is a time-honored tradition. However, faculty members and administrators must be prepared to respond effectively in real time when attempts at disruption are made at university-approved events. While university administrators usually are responsible for enforcing applicable student conduct codes, faculty members involved in organizing an event must plan ahead as well. By reviewing university rules and protocols in advance, coordinating with campus police and university administrative offices, modeling appropriate behavior while under pressure, and reacting effectively in real time in the event of heckling or other unruly behavior, faculty members can help avert or at least mitigate the effects of a disruption. Appendix IV, Part B offers guidance for faculty members and university administrators on this topic.

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PART III.

FACULTY DIMENSIONS OF THE ANTI-ISRAEL MOVEMENT

CHAPTER 8.

THE ANTI-ISRAEL MOVEMENT ON CAMPUS: FACULTY DIMENSIONS¹

MIRIAM F. ELMAN

At many U.S. universities and colleges, Jewish members of the campus community are facing an increasingly difficult reality of intensifying prejudice characterized by personal attacks on their Jewish-Zionist identities. Robust and critical conversations about Israel and the Middle East, including legitimate debates over Israel's policies toward the Palestinians, are giving way to an orthodoxy of viewpoint on these topics and an intolerable targeting of individual students—and sometimes even faculty—who think differently. Jewish students are being told that they must disavow their Zionist beliefs in order to participate in social justice spaces, and on some campuses in leadership positions, where merely the presumption of having an attachment to Israel is considered a disqualifying factor.

Programming sponsored by anti-Israel student groups and student-organized resolutions and statements that seek to delegitimize Israel and Zionism are now fielded regularly on many campuses. It is now also increasingly common to find Jewish-Zionist members of a campus community demoralized as racists and oppressors—and even as white supremacists. Antisemitic tropes and canards and conspiracies about “Jewish-owned media” and Jews who have “all the wealth and power in society” are increasingly seeping into campus anti-Israel activism. As George Washington University student Blake Flayton recently put it: “What we are seeing on our college campuses is not criticism of Israel. It is not even hatred of Israel or Zionism. It is unmitigated, often unprovoked rage at Jewishness.”²

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- 1 Sections of this essay draw on material that previously appeared in *Academic Freedom, Freedom of Expression, and the BDS Challenge: A Guide and Resource Book for Faculty* (AEN, September 2017). In addition, several sections draw on Michael B. Atkins and Miriam F. Elman, “BDS as a Threat to Academic Freedom and Campus Free Speech in the United States,” *Michigan State University (MSU) International Law Review*, Vol. 29, No. 2 (Spring 2021): 214–259 at https://academicengagement.org/wp-content/uploads/2021/07/MSU-ILR_Elman_Atkins_2020.pdf.
 - 2 Blake Flayton, “The Hate That Can’t Be Contained,” *Tablet Magazine*, November 25, 2020 at <https://www.tabletmag.com/sections/news/articles/hate-cant-be-contained>.

Peer-on-peer bullying and harassment (e.g., especially, but not only, on online social media platforms) comprises a large portion of this alarming reality.³ But it would be a mistake to conclude that Israel delegitimization and antisemitic rhetoric is merely a matter of students behaving disrespectfully. There is also a significant faculty dimension. As a group of 30 national civil rights and Jewish organizations recently noted in a letter addressed to some 165 university and college presidents across the United States:

Antisemitism has infiltrated the classroom—again masquerading as legitimate discourse about the Middle East. Academic departments are increasingly sponsoring events that demonize Israel, condone violence against Israel or call for the elimination of the Jewish state. Faculty advocate for and try to implement anti-Israel academic boycotts.”⁴

Hundreds of faculty members who teach at American universities and colleges are outspoken supporters of BDS—the boycott, divestment, and sanctions movement—which calls for a wholesale academic boycott of Israeli institutions of higher education. On some campuses, they include prominent public intellectual figures, such as Judith Butler, Angela Davis, Robin D. G. Kelly, and Cornel West. A number of well-known scholars of the Middle East also openly defend BDS.⁵ Consequently, virulently anti-Israel views and sentiments are well positioned on many campuses and often carry the endorsement of named chairs and even on some campuses the imprimatur of entire departments, programs, centers, and institutes.

Amidst the deep specialization and fragmentation of authority that prevails in the sprawling structure of most universities and colleges, the BDS perspective on Israel and the Israeli-Palestinian conflict has become ingrained and well-established in specific parts of the institution and curriculum. In some cases, to get along with pro-BDS colleagues, dissenting faculty will feel compelled to acquiesce or to accommodate their agendas. Worrying evidence also suggests that, at least in some departments and disciplines, the prominent presence and influence of pro-BDS faculty is nourishing the growth of a “conspiracy pedagogy” on campus.⁶ Jewish members of the faculty are increasingly voicing concerns that their jobs are being put in danger because of being identified as pro-Israel or for simply choosing not to join the “anti-Israel onslaught.”⁷

3 See the *Anti-Defamation League’s* report at <https://www.adl.org/resources/reports/antisemitism-and-the-radical-anti-israel-movement-on-us-campuses-2019>; the 2019 Campus Trends Report compiled by the *Israel on Campus Coalition* at <https://israelcc.app.box.com/v/campustrendsreport> and the *AMCHA Initiative’s* report, “Understanding Campus Antisemitism in 2019 and Its Lessons for Pandemic and Post-Pandemic U.S. Campuses” at <https://amchainitiative.org/wp-content/uploads/2020/07/Antisemitism-Report-2019.pdf>

4 Zionist Organization of America and 30 organizations, Letter, September 30, 2020 at <https://zoa.org/wp-content/uploads/2020/10/Effectively-Addressing-Campus-Antisemitism-A-Request-from-30-National-Organizations.pdf>. See also “Thirty Jewish organizations call on 165 colleges to combat anti-Semitism on campus,” *JNS*, October 2, 2020 at <https://www.jns.org/thirty-jewish-organizations-call-on-165-colleges-to-combat-anti-semitism-on-campus/>.

5 See <http://www.usacbi.org/endorsers/>. Some think that there are as many as 1,500 faculty on U.S. campuses who endorse BDS and the academic boycott of Israel. See Mitchell Bard, “Classroom Battlegrounds: Faculty and BDS,” *Jerusalem Post*, October 26, 2015 at <http://www.jpost.com/Blogs/Classroom-Battlegrounds/Faculty-and-BDS-430100>. The *AMCHA Initiative* puts the number at over 2,000. See “Faculty Academic Boycotters,” at <https://amchainitiative.org/faculty-academic-bds/#faculty-academic-boycotters/display-by-name/>

6 Cary Nelson, *Conspiracy Pedagogy on Campus: BDS Advocacy and Academic Freedom* (AEN Pamphlet No. 2, January 2017) at <http://academicengagement.org/wp-content/uploads/2019/09/Cary-Nelson-pamphlet.pdf>.

7 See Malcolm Hoenlein, Vice Chairman, Conference of Presidents of Major Jewish Organizations, quoted in Lazar Berman,

THE ANTI-ISRAEL MOVEMENT ACROSS THE DISCIPLINES

Vehemently anti-Israel and anti-Zionist perspectives are particularly prevalent in the humanities and some of the social sciences—they are prominent in Anthropology, English and Comparative Literature, History, and Women’s and Gender Studies departments. They also dominate in Ethnic Studies programs, including African American, Latino/Chicano, Native American and Indigenous Studies, and Asian American Studies units.⁸ They are prominent in Middle Eastern or Near Eastern Studies programs, including—as discussed further in this essay—those that are federally funded through Title VI of the Higher Education Act. On some campuses, surprisingly, Jewish Studies programs may also be top-heavy with faculty who advocate for BDS. Pro-BDS academics are also influential in American Studies, Film Studies, Borderlands Studies, and several other interdisciplinary programs.

By contrast, BDS has little following or support in the more quantitative social sciences and in Science, Technology, Engineering, and Math (STEM) fields. Indeed, the boycott movement has made comparatively few inroads in these disciplines.⁹ Recently, however, there has been a noticeable uptick in support for BDS in certain STEM fields (e.g., medicine and public health) and campus incidents involving anti-Israel delegitimization and even the targeting of Jewish-Zionist students in the sciences are starting to accumulate. One particularly egregious recent example involved a graduate student and teaching assistant in the Chemistry Department at Johns Hopkins University who reportedly joked on social media that she would downgrade a “Zionist student’s exam,” prompting the university to open an investigation.¹⁰ Another case at the University of Illinois–Chicago (UIC) involved its School of Public Health. Intended to protest an online lecture scheduled to be delivered by an Israeli health care professional, an associate professor at Ben-Gurion University and a UIC Public Health Scholar, the Students for Justice in Palestine chapter at UIC circulated a petition in February 2021 calling for the School of Public Health to cut ties with Israel’s academy.¹¹

“US Antisemitism Far Worse Than Reported, Say Conference of President Leaders,” *The Times of Israel*, May 31, 2021 at <https://www.timesofisrael.com/us-antisemitism-far-worse-than-reported-say-conference-of-presidents-leaders/> and Martin Kramer, “The unspoken purpose of the academic boycott,” *Israel Affairs*, Vol. 27, No. 1 (2021): 27-33 at https://scholar.harvard.edu/files/martinkramer/files/the_unspoken_purpose_of_the_academic_boycott_1.pdf.

- 8 An AMCHA Initiative study released in 2017 found that departments of Middle Eastern Studies, Ethnic Studies, and Women’s Studies where there was one or more faculty members who had expressed public support for an academic boycott of Israel were 5 to 12 times more likely to sponsor Israel-themed guest lectures, conferences and symposiums featuring pro-BDS speakers than were departments with no faculty who had publicly endorsed boycotts. See “The Impact of Academic Boycotters of Israel on U.S. Campuses” at <https://amchainitiative.org/wp-content/uploads/2017/10/Faculty-Report.pdf>
- 9 Elizabeth Redden, “The Non-Boycott of Israeli Science,” *Inside Higher Ed*, December 20, 2013 at <https://www.inside-highered.com/news/2013/12/20/boycott-movement-gains-traction-israeli-science-seems-largely-immune>
- 10 See Michelle Limpe and Chris H. Park, “OIE Investigates TA’s Tweet About Failing a Zionist Student,” *The Johns Hopkins News-Letter*, January 9, 2021 at <https://www.jhunewsletter.com/article/2021/01/oie-investigates-tas-tweet-about-failing-a-zionist-student>.
- 11 Sarah Brown, “Petition to Cut Ties with Israeli Institutions Circulates at University of Illinois at Chicago,” *The Forward*, February 12, 2021 at <https://forward.com/fast-forward/464056/petition-to-cut-ties-with-israeli-institutions-circulates-at-university-of/>

In recent years, pro-BDS national organizations have also fielded academic boycott campaigns targeting scholars in STEM fields. For example, after convincing feminist historian Catherine Hall in 2016 to rescind the Dan David Prize, which is administered by Tel Aviv University, BDS organizations this year again pressured recipients in the hard sciences to reject the award.¹² Last year, the US Campaign for the Academic and Cultural Boycott of Israel (USACBI) launched a boycott campaign against Tel Aviv University (TAU) falsely alleging that its Greenberg National Institute of Forensic Medicine was unlawfully holding the bodies of Palestinians killed in terror activities. A number of Students for Justice in Palestine chapters across the country joined the campaign calling for their campuses to cut ties with TAU.¹³

These BDS inroads in the STEM fields are certainly worrisome. Nevertheless, such cases are still more likely to be found today in the humanities and social sciences than they are in STEM. The vast majority of scholars in STEM fields do not regard Israel as a pariah state—academic exchange and partnerships, such as the Cornell University–Technion–Israel Institute of Technology joint campus, are growing. By contrast, in fields in the humanities and social sciences, academic departments are increasingly sponsoring and hosting conferences, guest lecture events, and seminar series that demonize and delegitimize Israel, condone violence against Israeli civilians and glorify terrorists, or call for the elimination of the state of Israel.¹⁴

A recent case that garnered national media coverage involved several faculty members at San Francisco State University (SFSU) who sought to host Leilah Khaled, a two-time airplane hijacker and a leading figure of the People’s Front for the Liberation of Palestine (PFLP), a U.S.-designated terror organization, in their virtual “open classroom.” After Zoom and other technology companies barred the SFSU event from streaming on their platforms on the grounds that Khaled’s association with a terrorist group violated their terms of service, faculty at New York University and the University of Hawaii organized webinars to protest the move. These

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12 The Dan David Prize is an award given to scholars deemed to have made outstanding contributions in science, technology, culture or social welfare. See USACBI, “Drs. Fauci, Wailoo, Park, June and Rosenberg: Say No to Israel’s Medical Apartheid—Reject the Dan David Prize,” at <https://usacbi.org/2021/03/drs-fauci-wailoo-park-june-and-rosenberg-say-no-to-israels-medical-apartheid-reject-the-dan-david-prize/> and BDS Australia, “200 Academics Urge History of Medicine Professor to Reject Israeli Award Over Israel’s Medical Apartheid,” at <https://bdsmovement.net/news/220-academics-urge-history-medicine-professor-reject-israeli-saward-over-israels-medical>.

13 See, e.g., USACBI, “USACBI Joins Call for Ohio State University and Other Institutions to Cut Ties with Tel Aviv University,” at <https://usacbi.org/2020/08/usacbi-joins-call-for-ohio-state-university-and-other-institutions-to-cut-ties-with-tel-aviv-university/>.

14 Daniel Gordon, “The Return of the Jedi: Opposing BDS at UMass,” *Jewish Journal*, November 7, 2019 at <https://jewish-journal.org/2019/11/07/the-return-of-the-jedi-opposing-bds-at-umass/>

events were subsequently also barred by Zoom. A recorded version of the NYU webinar ran on YouTube and featured Khaled calling for “armed struggle” against Israel. On the clip, NYU faculty member Andrew Ross, a professor of social and cultural analysis who spearheaded his department’s effort to boycott the university’s partnership with Tel Aviv University, admired Khaled as a “role model” and “freedom fighter.”¹⁵

University leaders at SFSU and NYU released statements defending the academic freedom of their faculty while also denouncing the online events for condoning violence. In addition, in an appropriate and constructive gesture, in our view, SFSU President Lynn Mahoney attended and spoke at a protest vigil for terror victims organized by the Hillel campus chapter and co-sponsored by several university offices tasked with advancing equity, diversity, and inclusion on the campus.¹⁶ Half a year later, the same two SFSU faculty members collaborated with a University of California–Merced faculty member to host this canceled panel with Leila Khaled; media companies once again refused to publicize or stream the event on their platforms.¹⁷ Without calling for the event to be cancelled, AEN expressed concerns regarding the likely negative impact it would have for the campus climate and for Jewish, Zionist, and Israeli students in a letter we addressed to University of California President Michael Drake.¹⁸

Beyond extramural events and programs, biased and one-sided courses that fail to offer diverse perspectives about Israel abound. To offer a diversity of viewpoints about Israel on campus, university leaders often have to resort to working with outside funders in order to support Israel Studies programming independent and separate from BDS-dominant departments and disciplines (and, on some campuses, even sometimes from Jewish Studies). It is unclear to what extent vehemently anti-Israel scholar-activists push their political line in classrooms and other campus forums.¹⁹ What is clear is that many openly support academic boycott campaigns when these are mobilized on campus and in professional associations.²⁰ BDS-advocating faculty, in petitions

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- 15 For more on these incidents, see John Leland, “What Zoom Does to Campus Conflicts Over Israel and Free Speech,” *The New York Times*, January 22, 2021 at <https://www.nytimes.com/2021/01/22/nyregion/college-anti-semitism-bds.html>; and Colleen Flaherty, “Zoom Draws a Line,” *Inside Higher Ed*, September 25, 2020 at <https://www.insidehighered.com/news/2020/09/25/zoom-refuses-stream-university-event-featuring-member-terrorist-organization>.
- 16 Gabriel Greschler, “S.F. Hillel hosts vigil to counter Khaled event,” *JWeekly: The Jewish News of Northern California*, September 24, 2020 at <https://www.jweekly.com/2020/09/24/s-f-hillel-hosts-vigil-to-counter-khaled-event/>; Lynn Mahoney, “S.F. State president: I condemn hate but cherish a diversity of opinions,” *JWeekly: The Jewish News of Northern California*, September 14, 2020 at <https://www.jweekly.com/2020/09/14/s-f-state-president-i-condemn-hate-but-cherish-a-diversity-of-opinions/>.
- 17 See Sharon Wrobel, “Zoom Registration for Upcoming Webinar with PFLP’s Leila Khaled Now Removed from Platform,” *The Algemeiner*, April 21, 2021 at <https://www.algemeiner.com/2021/04/21/zoom-registration-for-upcoming-webinar-with-pflps-leila-khaled-now-removed-from-platform/>.
- 18 Academic Engagement Network, <https://academicengagement.org/wp-content/uploads/2021/04/AEN-letter-to-UC-President-Drake-4.20.2021.pdf>.
- 19 An AMCHA Initiative study of 50 syllabi at 40 U.S. public and private colleges and universities over a 10-year period found that faculty advocating for the academic boycott of Israel had an average of 78% of their course readings authored by fellow BDS supporters. By contrast, faculty opposed to the academic boycott had only an average of 17% of their assigned course readings authored by BDS supporters. See AMCHA Initiative, “Bringing BDS into the Classroom,” January 2020 at <https://amchainitiative.org/wp-content/uploads/2020/01/Syllabus-Study-Report.pdf>.
- 20 BDS-sponsored boycott and divestment campaigns gained traction on a number of American campuses after the Israel-Hamas hostilities in 2014. According to the Israel on Campus Coalition (ICC), which tracks such activities, there were 32 total boycott or divestment campaigns on campuses between 2012 and 2014 compared with 77 during the two subsequent years (2014–2016). In 2016 to 2017, BDS activity returned to the pre-hostilities level with 20 campaigns on 18

or open letters, have publicly supported boycott and divestment initiatives on their campuses—essentially, demanding academic freedom for themselves but denying it to their own students.²¹

In addition, many BDS-affiliated faculty on campuses follow their own anti-Israel line in selected programs in the co-curriculum, and some may even affect their colleagues by seeking to limit institutional partnerships with Israeli academic institutions or to halt existing study abroad and exchange programs. These are attacks on the academic freedom not only of Israeli academics but also of U.S.-based scholars and students who wish to engage with their Israeli counterparts. There are also, we believe, unofficial and informal initiatives that are much harder to see, which we term “stealth” or “silent” boycotts, in which Israeli scholars may be deliberately shunned and excluded from publications or academic events because of their Israeli nationality or connections with Israeli institutions.

BDS faculty partisans form part of the campus landscape, promoting a narrative that demonizes and delegitimizes Israel and, increasingly, Zionism. They act as faculty advisors to student activist groups, promoting virulently anti-Israel allegations at extramural events, and often go on record against university leaders who speak out against either the academic boycott of Israel or a one-sided anti-Israel perspective on the conflict, which animates BDS-related campus events and programming. On some campuses, faculty have openly supported the BDS agenda in organized petitions.²² On others, faculty have voiced vehemently anti-Zionist opinions on social media platforms, leaving

ADL ADL San Francisco
@ADL_SF



.@ADL appalled @UCBerkeley lecturer @HatemBazian retweeted #antisemitic cartoon depicting Israeli soldier harvesting an organ; not the first time he propagated this vile conspiracy. Bigotry has no place on campus. Learn more about this antisemitic lie



Antisemitism Uncovered: Myth – Jews Use Christian Blood for Religious Rituals
antisemitism.adl.org

Credit: Twitter

campuses while in the 2018 to 2019 academic year, there were also 20 BDS resolutions, referenda, and boycotts. Boycott or divestment initiatives are largely aimed at organizing and winning student government votes or campus-wide student plebiscites. Faculty have supported such initiatives at times, for example, by mentoring student groups fielding BDS resolutions and other types of anti-Israel statements and speaking at student government events on their behalf.

- 21 Tammi Rossman-Benjamin, “Academic BDS and the Calculus of Hypocrisy,” *Inside Higher Ed*, March 20, 2019 at <https://www.insidehighered.com/views/2019/03/20/scholars-who-support-bds-are-denying-academic-freedom-students-opinion>. See, e.g., the May 2021 “Palestine and Praxis: Scholars for Palestinian Freedom” open letter and call to action at <https://palestineandpraxis.weebly.com/>.
- 22 For example, pro-BDS University of California faculty organized to oppose a rejection of academic boycotts by the UC Chancellors. See Michael Burawoy et al., “University of California must allow faculty to boycott Israel in academia,” *The Daily Californian*, February 19, 2019 at <https://www.dailycal.org/2019/02/19/university-of-california-must-allow-faculty-to-boycott-israel-in-academia/>. This prompted a number of AEN faculty members in the University of California system to write in defense of the Chancellors’ position. See Shiri Moshe, “17 UC Berkeley Professors Warn ‘Discriminatory’ BDS Campaign Poses ‘Clear and Direct Threat to Academic Freedom,’” *The Algemeiner*, March 21, 2019 at <https://www.algemeiner.com/2019/03/21/17-uc-berkeley-professors-warn-discriminatory-bds-campaign-poses-clear-and-direct-threat-to-academic-freedom/>. In another instance, pro-BDS faculty at NYU fielded a divestment petition. See Ned Harrell, “Professors Urge NYU to Divest from Israeli Occupation,” *Washington Square News*, April 15, 2015 at <https://www.nyunews.com/2015/04/15/professors-urge-nyu-to-divest-from-israel/>. Last year, faculty at the University of Massachusetts–Boston organized a letter-writing campaign to oppose the Chancellor of UMass-Amherst’s condemnation of a series of guest lectures and events which he maintained crossed the line from legitimate criticism of Israel into antisemitic forms of anti-Israel expression. See Jackson Richman, “UMass Boston faculty call on Amherst chancellor to retract

Jewish-Zionist students on their campuses feeling humiliated and demoralized.²³ Pro-BDS faculty are also currently playing a leading role in the campus effort to challenge and discredit the International Holocaust Remembrance Alliance (IHRA) non-binding working definition of antisemitism, which highlights forms of antisemitic anti-Israel expression.

Renewed hostilities and the escalation of violence between Israel and Hamas in May 2021 also saw U.S.-based faculty joining dozens of incendiary petitions and statements that denounced Israel and condemned it for war crimes. Organized or signed by hundreds of scholars across the country, primarily in select disciplines in the humanities and social sciences (e.g., Gender Studies, Ethnic Studies, and Middle Eastern Studies), the majority of these statements have been highly inflammatory in tone and factually inaccurate and incomplete. They absolve the Palestinians of all agency while demonizing Israel for its “crimes against humanity,” “eliminator violence,” “racial supremacy,” “brute force,” “territorial theft,” and “attempts to perpetuate modern-day ethnocracy and genocide.”²⁴

Most of these petitions and statements did not even mention Hamas or its responsibility for precipitating the Gaza war, effectively erasing the history and lived experiences of Israelis, both Jewish and non-Jewish, in the Israeli-Palestinian conflict. A number of them also explicitly rejected teaching or researching the conflict from a multiplicity of perspectives and committed signatories to advancing BDS and the academic boycott of Israel on their campuses. Of particular concern was that, in the case of some of these missives, entire departments, centers, or programs, including over 130 Gender Studies departments, signed on. As AEN noted in a statement, while academic freedom protects the right of individual faculty to independently voice their views about contentious political matters, when departments appear to be speaking for every affiliated member, dissenters—especially junior, contingent, and non-tenure-track faculty—may be intimidated from making their opposing views known.²⁵ In addition to dissenting faculty, it is also unclear whether students

statement criticizing BDS,” *JNS*, November 11, 2019 at <https://www.jns.org/umass-boston-faculty-call-on-amherst-chancellor-to-retract-statement-criticizing-bds/>. At University of Illinois–Urbana Champaign, pro-BDS faculty have demanded that the administration’s recently released *Joint Statement on Anti-Semitism* (see Appendix) be rescinded.

- 23 For example, a University of California, Riverside faculty member recently tweeted that “Zionism has politically toxified our schools and curricula.” See Aaron Bandler, “UCR Professor: ‘Zionism Politically Toxified Our Schools,’” *Jewish Journal*, January 12, 2021 at <https://jewishjournal.com/news/327364/ucr-professor-zionism-politically-toxified-our-schools/>. In another example, Rabab Abdulhadi, a faculty member at SFSU, tweeted images and hashtags equating Zionism and Israel with the far-right extremist ideologies held by those who attacked the Capitol on January 6, 2021. See ADL, “Anti-Israel Groups and Activists Link Capitol Hill Rioters with Israel and her supporters,” January 13, 2021 at <https://www.adl.org/blog/anti-israel-groups-and-activists-link-capitol-hill-rioters-with-israel-and-her-supporters>. Abdulhadi, who has used her department’s official Facebook page to disseminate claims equating Zionism with racism and condemning the presence of Jewish-Zionist students on the campus as a “declaration of war,” also described Israel supporters as white supremacists during a guest lecture at University of California, Los Angeles in May 2019. See Aaron Bandler, “UCLA Guest Lecturer Calls Zionists White Supremacists,” *Jewish Journal*, May 21, 2019 at https://jewishjournal.com/los_angeles/298850/ucla-guest-lecturer-calls-zionists-white-supremacists/.
- 24 Elizabeth Redden, “‘An Unprecedented Wave’ of Palestinian Solidarity Statements,” *Inside Higher Ed*, June 2, 2021 at <https://www.insidehighered.com/news/2021/06/02/academic-statements-express-solidarity-palestinians-and-condemn-israeli-actions>.
- 25 See “AEN Statement on Incendiary Communications Regarding the Israeli-Palestinian Conflict by Faculty and Academic Departments,” June 2, 2021 at <https://academicengagement.org/wp-content/uploads/2021/06/AEN-Statement-on-Anti-Israel-Communications-from-Academic-Departments-6.2.21.pdf>. AEN members have also written and organized counter-petitions and statements. See, e.g., “AEN Section for Women Faculty Response to the ‘Gender Studies Departments in Solidarity with Palestinian Feminist Collective’ Statement,” May 25, 2021 at <https://academicengagement.org/wp-content/uploads/2021/05/>

who disagree with the official anti-Israel and anti-Zionist positions adopted by these signatory departments, programs, and centers can feel welcomed and respected there.²⁶

FACULTY PROMOTION OF THE ACADEMIC BOYCOTT OF ISRAEL

Endorsing the academic boycott of Israel essentially means rejecting events, activities and projects involving Israeli academic institutions, including those that promote dialogue and coexistence; opposing study abroad programs in Israel and other types of inter-university collaborative projects and exchanges; and refusing to write for Israeli academic journals or to attend conferences on campuses there. The guidelines are remarkably broad, with supporters urged to “boycott and/or work towards the cancellation or annulment of events, activities, agreements, or projects involving Israeli academic institutions or that otherwise promote the normalization of Israel in the global academy, whitewash Israel’s violations of international law and Palestinian rights, or violate the BDS guidelines.”²⁷

At the same time, the guidelines are specific in the demands they make of those who pledge support for them. Faculty members and professional associations that endorse the academic boycott of Israel are encouraged to carry out a number of actions *on their own university and college campuses* in order to comply with the guidelines. These include:

- boycotting education study abroad or exchange programs in Israel and refusing to publicize such programs among their students;
- refusing to write letters of recommendation for students wishing to study in Israel;
- attempting to shut down collaborative research between scholars at their own university and those in Israel; and
- “resisting” academic programs or projects organized by students or faculty that “bring together Palestinians/Arabs and Israelis so that they can present their respective narratives or perspectives, or to work toward reconciliation” or that promote “co-existence.”

AEN-Section-for-Women-Faculty-Response-to-the-Palestinian-Feminist-Collective-Solidarity-Statement.pdf; Columbia University Faculty Statement, “Maintaining Columbia University’s Ties to Israel” at <https://www.columbiafacultystatement.com/>; City University of New York (CUNY) Faculty and Student Statement, “CUNY Community Statement Encouraging Mutual Respect and Engagement Towards a Just Middle East Peace and a CUNY Free of Harassment,” at <https://www.cunystatement.com/>; and Franklin and Marshall College Faculty Statement, “A Faculty Response to the ‘Franklin and Marshall Faculty Statement in Solidarity with Palestine,’” *The College Reporter*, June 25, 2021 at <https://www.the-college-reporter.com/2021/06/25/a-response-to-the-franklin-and-marshall-faculty-statement-in-solidarity-with-palestine/>.

- 26 On this point, see Cary Nelson, “Is Academic Freedom a Casualty of the Gaza War?” *Inside Higher Ed*, June 3, 2021 at <https://www.insidehighered.com/views/2021/06/03/statements-departments-about-gaza-war-have-implications-academic-freedom-opinion>.
- 27 Proposals for the academic boycott of Israeli academic institutions originate from the Palestinian Campaign for the Academic and Cultural Boycott of Israel (PACBI), which issued a call for an academic and cultural boycott of Israel in 2004. The United States Committee for the Academic and Cultural Boycott of Israel (USACBI) began promoting the academic boycott under PACBI guidelines in the United States in 2009. See Palestinian Campaign for the Academic and Cultural Boycott of Israel at <https://bdsmovement.net/pacbi> and US Campaign for the Academic and Cultural Boycott of Israel at <http://www.usacbi.org>.

Consequently, irrespective of their views about Israel or the Israeli-Palestinian conflict, U.S.-based scholars who advocate for the academic boycott of Israel are endorsing a campaign that not only targets Israeli universities for harm but also negatively impacts the educational and research opportunities of their own students and faculty colleagues in the United States.

Faculty who support BDS argue passionately that Israeli academic institutions are complicit in the oppression of Palestinians and insist that Israeli universities ought to be on record against occupation—something they do not suggest regarding academic institutions in other countries that are enmeshed in international conflicts or where academia has become an arm of the state.²⁸ They also try to differentiate between formal support for the boycott of Israeli academic institutions and the boycotting of individual Israeli academics, seeking to sidestep the charge raised against any academic boycott: that it involves *de facto* discrimination against individual scholars. Meanwhile, the cumulative effort to propagandize for boycott not only demonizes Israel and its academy but also has the effect of creating informal blacklists barring Israeli academics or Israel supporters from participating in or being invited to academic events where BDS supporters are a significant presence.²⁹

Between 2013 and 2015, faculty in several academic associations—including the African Literature Association, Association for Asian American Studies, National Association of Chicana and Chicano Studies, National Women’s Studies Association, and Native American and Indigenous Studies Association—voted to support the boycott of Israeli institutions of higher education. It was the passage of a boycott resolution at the American Studies Association in 2013 that led to widespread condemnation from academic organizations such as the American Association of University Professors (AAUP), American Council on Education, and Association of American Universities, as well as some 250 university presidents.³⁰ More recently, larger and more established associations have rejected what many see as the overt transformation and politicization of their disciplines. BDS proponents engineered organizational support for a boycott resolution at the national meeting of the American Anthropological Association (AAA) in Denver in November 2015, but opposing faculty beat this back later in a very closely contested vote of the international membership in May 2016.³¹

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- 28 Jonathan Marks, “Where Is the Movement to Boycott Turkey?” *Commentary*, July 29, 2019 at <https://www.commentary-magazine.com/jonathan-marks/bds-is-the-movement-to-boycott-turkey/>.
- 29 On stealth boycotts, see Miriam F. Elman, “The Pressure on American Academics to Conform to BDS,” *Haaretz*, Sept. 7, 2016 at <http://www.haaretz.com/opinion/1.740723>. The subject of stealth boycotts or informal black lists was a passionate topic at the AEN’s first national conference, in May 2016, in Washington DC.
- 30 See Association of American Universities, “AAU Board Reaffirms Opposition to Israel Boycott,” February 14, 2016 at <https://www.aau.edu/newsroom/press-releases/aau-board-reaffirms-opposition-israel-boycott> (reaffirming its Dec. 20, 2013 Statement on Boycott of Israeli Academic Institutions) at <https://www.aau.edu/sites/default/files/AAU-Files/News/aau-executive-committee-statement-on-israel-boycott-12-20-13.pdf>; American Association of University Professors, “On Academic Boycotts” (September–October 2006) at https://www.aaup.org/file/On-Academic-Boycotts_0.pdf; National Association of Scholars, “Singling Out Israel: Why We Oppose the Boycott,” January 29, 2014 at https://www.nas.org/blogs/statement/singling_out_israel_why_we_oppose_the_boycott; William A. Jacobson, “List of Universities rejecting academic boycott of Israel (Update – 250!),” published on the website of *Scholars for Peace in the Middle East* (Feb. 15, 2016) (originally published on 12/22/2013 in *Legal Insurrection* at <https://legalinsurrection.com/2013/12/list-of-universities-rejecting-academic-boycott-of-israel/>); and Isabella Sabri, “UC chancellors oppose academic boycott of Israeli scholars, higher learning institutions,” *The Daily Californian*, January 2, 2018 at <https://www.dailycal.org/2018/12/30/uc-chancellors-oppose-academic-boycott-of-israeli-scholars-higher-learning-institutions/>.
- 31 Elizabeth Redden, “Anthropology Group Won’t Boycott Israel,” *Inside Higher Ed*, June 7, 2016 at <https://www.insidehighered.com/news/2016/06/07/anthropology-group-rejects-resolution-boycott-israeli-academic-institutions>.

For a number of years in a row, faculty in the American Historical Association (AHA) were asked to consider punitive resolutions toward Israel. The first attempt, in December 2015, was negated on procedural grounds. A year later, at the AHA business meeting, a resolution stating that Israel limits access to educational institutions for Palestinians was defeated; the third attempt, a petition filed by Historians Against War (HAW) asking for an investigation of violations of academic freedom by Israel in the territories was defeated in January 2017.³² A boycott resolution was also defeated at the delegate assembly at the Modern Language Association (MLA) meeting in January 2017 and a competing resolution opposing boycotts at the MLA was passed. The anti-boycott resolution was submitted to the larger membership in a referendum vote, which passed on June 14, 2017.³³ Despite these numerous defeats, this past year, academic boycott motions were fielded again at the American Historical Association, at the Society for the Study of Social Problems (SSSP), and the American Political Science Association.³⁴

The “Boycott Israel Resolution” presented in the summer of 2019 at the SSSP, a professional association composed mainly of sociologists, highlights how BDS undermines academic freedom.³⁵ The resolution, had it passed, would have obliged each and every member of the Society to “refrain from participation in any form of academic and cultural cooperation, collaboration or joint projects” with Israeli institutions and to pressure their own institutions “to suspend all ties with Israeli universities, including collaborative projects, study abroad, funding and exchanges.”

In a letter sent to the Society’s membership, former presidents of the Society and its journal editors pointed to the discriminatory nature of the resolution and the harm it would do to individual researchers in the United States as well as Israel.³⁶ They argued that “boycotts of academic institutions cannot be meaningfully separated from the individuals whom those institutions employ and whom such boycotts inevitably harm” and that a boycott of Israeli academic institutions is “therefore more accurately described as a blacklist.” The resolution would “set a dangerous precedent,” the authors continued,

by sponsoring an inequitable and discriminatory policy—in violation of the SSSP’s mission statement—that would punish one nation’s universities and scholars.... In no other context does the SSSP discriminate on the basis of national origin—and for good reason. This is discrimination pure and simple...

Furthermore, a blacklist of Israeli academic institutions harms all SSSP members by restricting their academic freedom to work with scholars from other institutions around the world. Such freedom is essential to SSSP members’ vital professional interest in academic freedom and

32 Rick Shenkman, “AHA Council votes not to take action on petition requesting an investigation into violations of academic freedom in Israel and the West Bank,” *History News Network*, January 7, 2017 at <http://historynewsnetwork.org/article/164842>.

33 Jennifer Schuessler, “Modern Language Association Moves to Reject Academic Boycott of Israel,” *New York Times*, January 7, 2017 at https://www.nytimes.com/2017/01/07/arts/mla-reject-academic-boycott-of-israel.html?_r=0. MLA members voted 1954 to 885; the vote surpassed the 10% of membership threshold needed to be official.

34 For a detailed discussion of these recent boycott efforts in U.S. professional associations, see Chapter 9 in this *Guide and Resource Book*.

35 Colleen Flaherty, “BDS Resolution Fails at Social Problems Conference,” *Inside Higher Ed* (August 20, 2019) at <https://www.insidehighered.com/quicktakes/2019/08/20/bds-resolution-fails-social-problems-conference>.

36 Letter from SSSP award winners, former SSSP officers, and former editors of the society’s journal *Social Problems* to members of the SSSP, July 26, 2019.

open intellectual exchange. Without such freedom, researchers and educators cannot fulfill their professional responsibilities. The SSSP should not set policies that would restrict members' academic right to conduct research and collaborate with colleagues as they see fit.

The SSSP resolution was narrowly defeated in August of 2019.³⁷

Last summer, a group of scholar-activists in the Foundations of Political Theory section of the American Political Science Association (APSA) promoted a similar resolution calling for the academic boycott of Israel. Like the boycott proponents in the SSSP, the sponsors of the proposed resolution in the APSA's Foundations of Political Theory section advanced misleading claims about the effects that an academic boycott of Israel would have on academic freedom. For example, a FAQ document that the resolution sponsors prepared offered these answers to questions about boycotts:

Question: "Doesn't academic boycott violate basic tenets of academic freedom?"

Answer: "Boycotts do not abridge or impact anyone else's freedom."

Question: "Won't an academic boycott alienate or harm Israeli academics?"

Answer: "Academic boycotts target institutions, not individuals. So, no individual person is addressed by it and no one's individual career will be harmed by it."

The claim that academic boycotts affect only Israeli academic institutions and not individual scholars is untenable because it is impossible to deny funding and recognition and cause reputational damage to some of the world's major research and teaching universities without negatively affecting the people who work and study in them. The reality, of course, is that individual scholars *are* being harmed.³⁸ Consider that a scholar affiliated with Israel's Academic College of Management recently admitted that she sometimes omits "Cohen" from her hyphenated name when she submits a manuscript: "That is what the BDS movement has driven us to do if we want to sustain our careers."³⁹ The fact that some Jewish academics in certain disciplines believe that they must hide their identities if they want to succeed professionally is a troubling outgrowth of the campus battles over Israel. As Martin Kramer, a scholar affiliated with the Department of Middle Eastern and Islamic Studies at Israel's Shalem College, recently noted, "one option is to become one of these crypto-Zionists" and say nothing. But even silence may not be enough in certain fields in the humanities since faculty colleagues "expect you to denounce Israel as an apartheid state, support the Palestinian right of return, perhaps even accuse Israel of genocide...we are now seeing the re-emergence of the litmus test: if a Jew wishes to take his or her place in certain parts of the academy, he or she must first renounce Zionism and denounce Israel."⁴⁰

37 A resolution calling for the academic boycott of Israel that was *nearly identical* to the one introduced and defeated in 2019 was also put before the membership of the SSSP in 2020. Despite calls for the resolution to be tabled because of an insufficient opportunity for debate due to the COVID-19 health crisis—and because the same resolution was already debated and rejected—the SSSP's leadership allowed the resolution to proceed to a vote, in which it was subsequently defeated again.

38 Elizabeth Redden, "BDS Movement Survives Challenge," *Inside Higher Ed*, December 8, 2014 at <https://www.inside-highered.com/news/2014/12/08/anthropologists-reject-resolution-opposing-academic-boycott-israel>; Cary Nelson, *Israel Denial: Anti-Zionism, Anti-Semitism, and the Faculty Campaign Against the Jewish State* (Washington, DC: Academic Engagement Network/Indiana University Press, 2019), p. 22.

39 Nelson, *Israel Denial*, p. 37.

40 Kramer, "The unspoken purpose of the academic boycott," pp. 29-30.

Beyond professional associations, faculty proponents of academic boycott may also aim to cut off productive relations with Israeli academic institutions by pressing for bans on study abroad programs and institutional cooperation agreements. These actions deprive U.S.-based faculty and students of academic opportunities that they pursue in many other countries with far sketchier records on civil liberties and human rights than Israel (with the occasional exception of repressive regimes like North Korea or Iran, where American visitors could be in physical danger). Faculty proponents of BDS called to end study abroad programs in Israel in the California State University system,⁴¹ and have attacked joint programs based on formal agreements with Israeli universities, as with Cornell University and the Technion–Israel Institute of Technology and Pitzer College with the University of Haifa.⁴²

BDS proponents have also sought to shutter educational exchanges with specific Israeli academic institutions. For instance, an international conference on genocide in Jerusalem was opposed and boycotted because it was supported and hosted by the city’s Hebrew University.⁴³ Included in this indictment were the world-class facilities devoted to study of genocide at Yad Vashem, the Israeli Holocaust Remembrance Center. Another example involved BDS supporting faculty members at Syracuse University who protested an international conference sponsored by colleagues in the Maxwell School’s Program for the Advancement of Research on Conflict and Collaboration (PARCC) because it was arranged jointly with Tel Aviv University’s Tami Steinmetz Center for Peace Research.⁴⁴ In this case, boycott proponents took to task Syracuse University’s partnership with Tel Aviv University, even though the conference was devoted neither to study of Israel nor the Israel-Palestine conflict.⁴⁵

FEDERALLY FUNDED MIDDLE EASTERN AND NORTH AFRICA (MENA) NATIONAL RESOURCE CENTERS AND THE ANTI-ISRAEL MOVEMENT⁴⁶

In the fight against anti-Israel bias on American campuses, a number of Israel advocacy organizations have long questioned the programming of federally funded Middle Eastern Studies Centers that are awarded grants

41 Emily Schrader, “Profs, students oppose study abroad in Israel,” *The College Fix*, December 7, 2011 at <https://www.thecollegefix.com/post/9844/>.

42 “In Opposition to Cornell University’s Collaboration with Technion—Israel Institute of Technology,” at <https://www.ipetitions.com/petition/in-opposition-to-cornell-universitys/>. For recent efforts to shutter study abroad programs in Israel, see Chapter 10 in this *Guide and Resource Book*.

43 “Hundreds of Academics Call for Boycott of Genocide Conference in Israel,” Academics for Palestine: Academia Against Genocide at <https://academicsforpalestine.wordpress.com/2016/05/23/hundreds-of-academics-call-for-boycott-of-genocide-conference-in-israel/>.

44 “SU community members outline BDS movement’s goals,” *Daily Orange*, September 25, 2016 at <http://dailyorange.com/2016/09/campus-bds-supporters-outline-movements-goals/>.

45 Satoshi Sugiyama, “BDS movement at Syracuse University thrust into the spotlight,” *Daily Orange*, Oct. 18, 2016 at <http://dailyorange.com/2016/10/bds-movement-at-syracuse-university-thrust-into-the-spotlight/>. The conference organizers and some of the presenters released a response to this attempt to encourage the campus community to “resist” their event while it was underway as well as others that might be co-hosted in the future with Israeli universities. See “SU faculty express concern about BDS letter, movement,” *The Daily Orange*, October 1, 2016 at <http://dailyorange.com/2016/10/su-faculty-express-concern-bds-letter-movement/>.

46 The author thanks Spencer Kent for helpful research assistance on this section.

under Title VI of the 1965 Higher Education Act (HEA).⁴⁷ Title VI is among the oldest continuing federal support programs for U.S. universities, authorizing grants for foreign language and overseas study with the goal of creating a pool of experts to meet U.S. diplomatic and national security needs and interests. Concerns that some of these centers funded through the program may be in noncompliance with the statutory requirements for Title VI funding has recently prompted a number of U.S. lawmakers to call for their examination. In one controversial case, the Department of Education (DoE) initiated a review of a possible misuse of funds by several of these centers.⁴⁸ The central allegations in these complaints are the prevalence of pro-BDS-affiliated faculty, biased and politicized teaching and scholarship, and anti-Israel propaganda in outreach programs for the community, including K–12 teachers and the general public.⁴⁹

On one hand, we are sympathetic to the position that if Middle East NRCs choose to take federal funding through Title VI grants, then they should be compliant with its requirements. Title VI requires recipients to “promote access to research and training overseas, including through linkages with overseas academic institutions.” Thus, if the Centers are implementing an academic boycott of Israeli institutions, then they are by definition in noncompliance. On the other hand, a 2008 amendment to Title VI of the HEA, which requires grant recipients to demonstrate and “reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs,” can be interpreted and fulfilled in different ways.⁵⁰ It could be argued that teaching a pro-BDS perspective does not inherently violate the requirement even if the legislative intent is interpreted as diversity of perspectives and a wide range of viewpoints within the classroom. However, if the BDS narrative is the only perspective on Israel and the Arab-Israeli conflict that is taught and presented in the coursework and programming of a Title VI-funded Middle Eastern Studies program, it would likely pose a problem in terms of compliance with the law.

A related concern that we see arises where those administering these Middle East Studies NRCs pledge support for the academic boycott. While we may agree or disagree on the viewpoints of affiliated faculty at these Centers, those of its leadership—who have authority to develop policies—are cause for greater alarm.

47 The Louis D. Brandeis Center for Human Rights Under Law, *The Morass of Middle East Studies: Title VI of the Higher Education Act and Federally Funded Area Studies* (Washington, DC, 2014) at https://brandeiscenter.com/wp-content/uploads/2017/10/antisemitism_whitepaper.pdf; Elizabeth Redden, “Pro-Israel Groups Question Federal Funds for Middle East Centers,” *Inside Higher Ed*, September 18, 2014 at <https://www.insidehighered.com/quicktakes/2014/09/18/pro-israel-groups-question-federal-funds-middle-east-centers>.

48 Currently, there are 14 federally funded centers focused on the Middle East region out of nearly 100 National Resource Centers (NRCs) nationwide. See Middle East Centers/Institutes/Schools, University of Arizona Center for Middle Eastern Studies, accessed January 21, 2021 at <https://cmes.arizona.edu/programs/centers>. Last year, members of Congress requested that the DoE investigate the use of Title VI grants for Middle East Studies NRCs at Georgetown University, the University of Arizona, the University of California–Berkeley, and Yale University. In addition, in 2020 the DoE opened a formal review of the Duke University/University of North Carolina–Chapel Hill Consortium for Middle Eastern Studies (CMES) for potential noncompliance with the regulations of the Title VI mandate but did not ultimately withhold funding. Separately, an investigation of the CMES opened by the DoE and initiated at the request of Rep. George Holding (R-NC) resulted in a settlement with no finding of Title VI violations or wrongdoing under the Civil Rights Act.

49 See, e.g., The Louis D. Brandeis Center for Human Rights Under Law, “Jewish, Civil Rights, and Educational Groups Urge Higher Education Reform—Letter,” January 24, 2018, <https://brandeiscenter.com/higher-ed-reform-letter/>.

50 Some DoE officials under the Obama administration, for example, reportedly interpreted this clause to mean that DoE personnel evaluating the grant applications should be racially diverse. See Gary C. Gambill, “Sarah Stern on Reforming Title VI-Funded Middle East Studies Centers,” *Middle East Forum*, June 1, 2020 at <https://www.meforum.org/60922/how-to-reform-middle-east-studies-at-american>.

For example, we might argue that pledging not to cooperate with Israeli universities and colleges would be antithetical to the function of a chair or director of a Middle East Studies Center—especially one that is supported through a taxpayer-funded Title VI grant. Finding evidence that a Title VI-funded Middle East Center was, in fact, implementing the academic boycott of Israel and adhering to PACBI guidelines would raise serious questions regarding whether it was shirking its responsibility to promote access and links to overseas institutions for its affiliated faculty and students.⁵¹

The Higher Education Act provides very clear and specific reasons why Middle East Studies Centers were to be funded. The original goal was to facilitate the training of experts in the study of particular regions of the world in order to advance America's economic, military, and foreign policy interests. The Higher Education Act authorizes funds to be spent in this way for the study of almost every region of the world, including the Middle East. Leaders recognized the importance of having people who understood languages such as Arabic and Farsi and who had a grounding in the political and economic structure of societies in the Middle East and North Africa.

According to critics, many of the academics affiliated with these NRCs are openly hostile to America's foreign policy interests and even openly declare their support for terrorism and violence. One Title VI-recipient center reportedly went as far as to host a speaker who defended Holocaust denial. In 2011, the Center for Middle Eastern Studies (CMES) of the University of California, Berkeley (UC Berkeley) brought in Gilbert Achcar to give a lecture titled "The Arabs and the Holocaust" in which he asserted that "Holocaust denial is a form of protest."⁵² Even if one puts aside how morally grotesque such a comment is, it gets to the heart of a secondary problem regarding Middle East Studies NRCs: one of the arguments that is made for why these centers on campus should receive Title VI funding to train the next generation of foreign economic and security policy experts is because they supposedly have an expertise that is difficult to find elsewhere. If the expertise of the scholars associated with these centers is shown to be insufficient, policy makers would have good reason to do away with the Title VI program.

Periodically, the NRCs that receive Title VI funding must report on their activities and outcomes in order to show that they are deserving of continued funding. In a 2019 letter sent to the Duke–University of North Carolina (UNC) Consortium for Middle East Studies, the DoE questioned whether the consortium's activities were in compliance with Title VI.⁵³ Critics accused the DoE of engaging in a politically motivated

51 The AMCHA Initiative has determined that the directors of six Title VI-funded Middle East Studies Centers have endorsed the academic boycott of Israel and the PACBI agenda by signing petitions in which they pledged not to collaborate on projects and events involving Israeli academic institutions. In a 2018 letter submitted to former U.S. Secretary of Education Betsy DeVos, the AMCHA Initiative (joined by 68 other Jewish and civil rights organizations) urged the DoE to investigate whether these Centers were implementing an academic boycott of Israel. The letter noted that NRCs at the University of Michigan and New York University had hosted events defending the right of faculty to implement an academic boycott of Israel. See "Nearly 70 Orgs Call on Dept of Education Secretary DeVos to Ensure Taxpayer \$ Will Not Be Used to Implement a Boycott of Israel," *AMCHA Initiative*, November 13, 2018 at <https://amchainitiative.org/69-orgs-to-DeVos-No-Taxpayer-Money-for-Academic-Boycott>.

52 Joint Statement on the Misuse of Federal Funds Under Title VI, AMCHA Initiative, at <https://amchainitiative.org/joint-statement-on-title-vi-hea>.

53 Robert King, Notice of a Letter Regarding the Duke-UNC Consortium for Middle East Studies, *United States Department of Education*, September 17, 2019, <https://www.federalregister.gov/documents/2019/09/17/2019-20067/notice-of-a-letter-regarding-the-duke-unc-consortium-for-middle-east-studies>.

form of coercion that egregiously violated academic freedom.⁵⁴ Our view is that the criticisms were overblown. The DoE has a responsibility to be a good steward of the funding it dispenses. That is, it has an administrative responsibility to ensure that Title VI funding is spent in a manner that complies with federal law and is obligated to enforce this same requirement for all NRCs that receive federal funding. Thus, the Department was not overstepping when it sought to determine whether the CMES was out of compliance with the terms of its annual \$235,000 Title VI grant (at the time the DoE sent its letter, the Duke-UNC center's funding had already been renewed back in 2018 for four more years).

The Duke/UNC consortium responded to the DoE complaint with extensive documentation demonstrating its compliance with the terms of its Title VI grant. Appropriately, in our view, university leaders at the schools notified the government they would put into place new monitoring mechanisms to ensure compliance moving forward. Duke University President Vincent E. Price and Provost Sally Kornbluth issued a statement expressing “heightened concern about possible intrusions into academic freedom” yet acknowledged that “government agencies can and do choose what they will support with public funds; if Duke accepts this funding, then we have an obligation to understand and abide by the applicable legal guidelines for its use.” In a formal response to the DoE, UNC’s Vice Chancellor for Research defended the Consortium’s range of programming as consistent with the law, but also noted that the university would ensure that the center complied with congressional requirements by establishing an advisory board to oversee activities. In addition, a clear recording system would be set up to show how Title VI-funded activities matched and related to the purposes and requirements of the federal program.⁵⁵

Ultimately, administrators have important decisions to make when trying to ensure that federally funded academic programs housed on their campuses comply with federal law. For the sake of their students, it is important that administrators work with faculty to make certain that Title VI guidelines are being followed. While many administrators are rightly hesitant about micro-managing the teaching, research and service of their faculty, proper oversight of the operations of federally-funded institutes on campus is also necessary. After all, if politicians and civil servants are skeptical that university administrators can properly enforce federal law, it may cause them to enact policies that force their hand.

“Finding evidence that a Title VI-funded Middle East Center was, in fact, implementing the academic boycott of Israel and adhering to PACBI guidelines would raise serious questions regarding whether it was shirking its responsibility to promote access and links to overseas institutions for its affiliated faculty and students.”

54 See, for example, Sarah Brown, “Education Dept. Takes Aim at a Center on Middle East Studies. Scholars Say That Could Chill Academic Freedom,” *Chronicle of Higher Education*, September 22, 2019 at <https://www.chronicle.com/article/education-dept-takes-aim-at-a-center-on-middle-east-studies-scholars-say-that-could-chill-academic-freedom/>.

55 “Message from President Price, Provost Kornbluth on Academic Freedom,” *Duke Today*, September 26, 2019 at <https://today.duke.edu/2019/09/message-president-price-provost-kornbluth-academic-freedom>; Elizabeth Redden, “Middle East Studies Program Comes Under Federal Scrutiny,” *Inside Higher Ed*, September 25, 2019 at <https://www.insidehighered.com/news/2019/09/25/federal-inquiry-middle-east-studies-program-raises-academic-freedom-concerns>.

TITLE VI–FUNDED UNIVERSITY MENA CENTERS AND COMMUNITY OUTREACH: A CASE STUDY IN NEWTON, MASSACHUSETTS

Federally funded Title VI NRCs are obligated to provide “public outreach” activities. For Middle East Studies centers, the requirement has largely been fulfilled through K–12 teacher training seminars with materials prepared and delivered by affiliated faculty. These teacher training seminars are set up to allow the sharing of teaching materials, information, and curriculum implementation strategy primarily to high school educators. While many of the federally funded MENA centers do an admirable job of training K–12 educators on their rich and diverse subject matter, some are becoming feeders for anti-Israel sentiment lower down the educational chain.

One example of this “negative feedback loop” between campus and K–12 educational arenas occurred in Newton, Massachusetts.⁵⁶ In 2011, Shiri Pagliuso, a ninth-grade Jewish student at Newton South High School, came home and told her father something that caused him to inquire about what she was learning in the classroom. She explained to him that she had been assigned to read a textbook chapter claiming that Israel is “systematically torturing and killing Palestinian women.”⁵⁷ What ensued was a multi-year battle between Mr. Pagliuso, who was soon joined by other parents and several local Jewish community organizations, and the Newton School Board to have this and other offensive material removed. At the time of this writing, the case is in court.⁵⁸

How did public school teachers in Newton, Massachusetts end up feeding anti-Israel propaganda to their teenage students? When one takes a look at the training sessions that teachers in Newton attended, the answer becomes evident. Although it no longer receives Title VI funding,⁵⁹ for some years, Harvard University’s Center for Middle Eastern Studies (CMES) organized teacher training seminars for many educators across the greater Boston area. By 2019, at least 80 history teachers from the Newton public school system (ranging from elementary school teachers to high school teachers) had participated in trainings on how to teach the Arab-Israeli conflict through Harvard’s CMES.⁶⁰

The delegitimization of Israel that took place in Newton’s high school classrooms was not an isolated incident; in recent years, similar cases have cropped up in both public and private schools across the United States. As in the case of Newton, anti-Israel propaganda can filter in from universities, although it can come about in many different ways. For example, individual teachers may independently decide to bring into the classroom

56 *Jewish News Syndicate*, “Analysts Warn of Anti-Israel, ‘Negative Feedback Loop’ in American High Schools, Colleges,” *JNS*, January 17, 2019 at <https://www.jns.org/analysts-warn-of-an-anti-israel-negative-feedback-loop-in-high-schools-and-colleges/>.

57 Liel Leibovitz, “Teaching High School Students to Demonize Israel,” *Tablet Magazine*, July 18, 2019 at <https://www.tabletmag.com/sections/news/articles/teaching-high-school-students-to-demonize-israel>.

58 For extended discussions of the Middle East curriculum at Newton South and North High Schools, see Steven Stotsky, *Indoctrinating Our Youth: How a U.S. Public School Curriculum Skews the Arab-Israeli Conflict and Islam* (Boston: CAMERA, 2017) at <https://www.schoolbias.org/> and Steven Stotsky, “Anti-Israel Indoctrination Continues in Newton Public High School,” *CAMERA*, November 26, 2018 at <https://www.camera.org/article/anti-israel-indoctrination-continues-in-newton-public-high-school/>.

59 Paul G. Sullivan, “Federal Funding and the Question of Academic Freedom,” *The Harvard Crimson*, October 17, 2019 at <https://www.thecrimson.com/article/2019/10/17/CMES-title-vi/>.

60 Leibovitz, “Teaching High School Students to Demonize Israel.”

unvetted materials from the Internet. Ultimately, the only way that this can be successfully monitored (let alone prevented) is for parents to remain vigilant and take a proactive interest in what is being taught to their children.

In this regard, it is important to note that pro-BDS faculty may have access to K–12 programming through professional development workshops and may even help to produce the materials used.⁶¹ This has led to growing alarm that virulent anti-Israel and anti-Zionist narratives are moving down the educational chain into high schools and even lower.⁶² For example, concerns have been raised over pro-BDS and anti-Israel statements embedded within California’s Ethnic Studies Model Curriculum (ESMC). An initial version of the ESMC lauded BDS among a list of U.S. social justice movements, failed to include a discussion of antisemitism, and ignored the American Jewish experience. Tellingly, many of the experts selected by the Board of Education’s Instructional Quality Committee to develop the ESMC were faculty in the School of Ethnic Studies at San Francisco State University. While some of the more objectionable elements in this early draft were removed in the version of the curriculum that was eventually adopted by California’s Board of Education in March 2021, the final version casts America’s Jews as “privileged” whites who earned their status by changing their Jewish-sounding names to blend in. Such a claim about Jewish privilege echoes the canard of the Jew as an imposter whose achievements rest solely on trickery—tropes that have sustained anti-Jewish hatred across the millennia.⁶³

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- 61 For example, a workshop for the Los Angeles Unified School District featured a virulently anti-Israel curriculum prepared by pro-BDS academics Joel Beinin and Lisa Hajjar and taught by an adjunct professor of history at Santa Monica College. See Jack Saltzberg, “Exclusive: LA Unified School District recruits anti-Israel political group to indoctrinate teachers,” *The Israel Group*, October 16, 2017 at <https://www.theisraelgroup.org/post/exclusive-la-unified-school-district-recruits-anti-israel-political-group-to-indoctrinate-teachers>; Shiri Moshe, “Report: Los Angeles School District Approved Workshop with Readings Accusing Israel of ‘Genocidal Policies,’” *The Algemeiner*, October 20, 2017 at <https://www.algemeiner.com/2017/10/20/report-los-angeles-school-district-approved-workshop-with-readings-accusing-israel-of-genocidal-policies/>.
- 62 Jonathan Marks, “The Anti-Israel Movement: Coming to a High School Near You?” *Commentary*, June 3, 2019 at <https://www.commentarymagazine.com/jonathan-marks/bds-anti-israel-movement-coming-to-a-high-school-near-you/>; Sean Savage, “Anti-Israel bias in a Boston suburb’s public schools is part of a nationwide trend,” *Sun Sentinel*, February 5, 2019 at <https://www.sun-sentinel.com/florida-jewish-journal/fl-jj-anti-israel-bias-boston-schools-nationwide-trend-20190213-story.html>; “Analysts warn of anti-Israel ‘negative feedback loop’ in American high schools, colleges,” *JNS*, January 17, 2019 at <https://www.jns.org/analysts-warn-of-an-anti-israel-negative-feedback-loop-in-high-schools-and-colleges/>; Miriam F. Elman, “Palestinian Propaganda Is Infiltrating US Public Schools,” *The Algemeiner*, August 7, 2017 at <https://www.algemeiner.com/2017/08/07/palestinian-propaganda-is-infiltrating-us-public-schools/>.
- 63 A number of AEN members expressed concerns over the way Israel, Zionism, and Jews are presented in California’s Ethnic Studies Model Curriculum mandated by the state legislature for use in high schools statewide. See, for example, Al Sokolow et al., “4 forms of bias to avoid in designing ethnic studies for high schools,” *CalMatters*, December 15, 2020 at <https://calmatters.org/commentary/my-turn/2020/12/4-forms-of-bias-to-avoid-in-designing-ethnic-studies-for-high-schools/> and Tammi Rossman-Benjamin, “California’s ethnic studies proposal is incomplete and offensive,” *San Francisco Chronicle*, March 4, 2020, <https://www.sfchronicle.com/opinion/openforum/article/California-s-ethnic-studies-proposal-is-15103049.php>. See also Emily Bendek, “California Is Cleansing Jews From History,” *Tablet Magazine*, January 27, 2021 at <https://www.tabletmag.com/sections/news/articles/california-ethnic-studies-curriculum>; and Pamela Paresky and Lee Jussim, “Why No One Should Accept a ‘Critical Ethnic Studies’ Curriculum. Least of All, Jews,” *Jewish Journal*, January 27, 2021, <https://jewishjournal.com/commentary/332109/why-no-one-should-accept-a-critical-ethnic-studies-curriculum-least-of-all-jews/>.

THE IMPACT OF BDS ON EDUCATIONAL OPPORTUNITIES FOR STUDENTS

For some faculty promoters of BDS, opposition to Israel has attained a kind of moral status that outstrips other principles—even advancing educational opportunities for their students. In September 2019, a recently tenured professor at the University of Michigan withdrew his offer to write a letter of recommendation in support of a student's study abroad application once he realized that she was applying to study in Israel and not another country.⁶⁴ In support of this faculty member, scores of faculty pledged that they would also refuse to write reference letters for their students should they wish to apply to study abroad programs in Israel.⁶⁵ For these faculty members, personal politics eclipses professional responsibility; their stance essentially amounts to punishing their students for Israel's perceived wrongdoings.

In response to the incident at University of Michigan, AEN and the Anti-Defamation League partnered to draft a model policy on letters of recommendation for use in faculty handbooks.⁶⁶ The model language highlights that when faculty are asked to write letters of reference on behalf of students, as a matter of professional responsibility, the primary consideration should be the student's academic merit and qualifications. Political considerations and personal political viewpoints should not influence the decision to express or withhold support for the student. This policy guidance was sent to hundreds of university and college presidents and chancellors, urging its adoption.

If faculty members have a professional responsibility to avoid allowing their personal politics from interfering with educational opportunities for their students, campus administrators arguably have a special duty in this regard. When individuals who hold senior administrative positions advocate for the academic boycott of Israel, at the very least they throw their university's commitment to campus free speech, academic freedom, and open inquiry into question. It is important to ascertain whether their advocacy for the academic boycott of Israel is "just talk" and, hence, speech that is protected by academic freedom, or whether they are using their administrative positions to implement the PACBI boycott guidelines. In Fall 2019, this concern led AEN to write a letter to Marty Meehan, the President of the University of Massachusetts (UMass), alerting him to the fact that 11 members of the faculty at UMass–Boston who had publicly endorsed the academic boycott of Israel were serving in administrative roles, including a dean of the honors college, six department chairs, and four center or program directors.⁶⁷

64 Isaac Stanley-Becker, "A Michigan professor supported a student's study-abroad application — until he realized Israel was her destination," *The Washington Post* (September 20, 2018) at <https://www.washingtonpost.com/news/morning-mix/wp/2018/09/20/a-michigan-professor-supported-a-students-study-abroad-application-until-he-realized-israel-was-her-destination/>. See also Cary Nelson, "How the Israel Boycott Can Compromise Faculty and Harm Students," *Chronicle of Higher Education* (September 25, 2018) at <https://www.chronicle.com/article/how-the-israel-boycott-can-compromise-faculty-and-harm-students/>.

65 Richard Falk et al., "Standing with John Cheney Lippold," *Academe Blog* (Sept. 19, 2018) at <https://academeblog.org/2018/09/19/standing-with-john-cheney-lippold/>.

66 Academic Engagement Network and Anti-Defamation League, "Faculty Guidance for Letters of Recommendation," and "Model Language on Letters of Recommendation for Faculty Handbooks" (November 2018), available at <https://academicengagement.org/aen-adl-model-policy-on-faculty-recommendations>.

67 Letter from Mark G. Yudof and Miriam Elman, Academic Engagement Network, and Tammi Rossman-Benjamin, AMCHA Initiative, to Martin T. Meehan, President, University of Massachusetts (Nov. 18, 2019; on file with AMCHA Initiative) at <https://amchainitiative.org/wp-content/uploads/2019/12/AEN-AMCHA-Ltr-to-Pres-Meehan-11-18-19.pdf>.

Administrators who are on record publicly endorsing the BDS/PACBI call for an academic boycott of Israel should make clear that, despite their personal political beliefs, they will not take actions in their official university capacities to implement the boycott. Campus administrators who would seek to implement the PACBI guidelines most likely would be circumventing the stated positions or policies of their own universities. They also would risk chilling speech and subverting the research of their faculties and students. It would be reasonable for nonprotected faculty and graduate students—and perhaps tenured faculty, too—to stay clear of such research opportunities and inter-university exchanges given their potential professional costs.⁶⁸ As AEN's Executive Director Miriam Elman recently pointed out:

It is wrong to apply ideological litmus tests to administrative appointments...[but] if implemented, the academic boycott would directly subvert educational opportunities...Appointing someone who has pledged themselves to implement the academic boycott...to a senior university leadership position...could also potentially create a chilling effect among faculty there, especially junior scholars.⁶⁹

BDS IN THE CLASSROOM

Aspects of the BDS narrative are finding increasing support in many courses in American universities and colleges. Leading scholar-activists in the BDS movement, such as Noura Erakat, Joseph Massad, Rashid Khalidi, Marc Lamont Hill, Rabab Abdulhadi, and Saree Makdisi, as well as influential movement figures such as Omar Barghouti, Ali Abunimah, Angela Davis, Linda Sarsour, and others, openly circulate among campuses offering lectures as part of the university co-curriculum funded at departmental or student expense. Generally, such talks and discussions are unbalanced presentations and call forth little critical response from attending students. They are not efforts to open a difficult dialogue by exposing students to a multiplicity of perspectives about Israel and the Middle East. On some occasions, these guest lecturers clearly cross the line from legitimate criticism of Israel into antisemitism.

This was the case in the infamous example of Rutgers University faculty member Jasbir Puar, who was invited to Vassar College in February 2016 to guest lecture on “Inhumanist Biopolitics: Why Palestine Matters.” A professor in the Department of Women's, Gender and Sexuality Studies at New Jersey's state university, she informed her audience that Israel was engaged in “weaponized epigenetics” against Palestinians and was guilty of harvesting their organs and body parts for scientific research.⁷⁰

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- 68 For more on the claim that pledging to refuse to collaborate with Israeli universities—while a stance protected by academic freedom—is inconsistent with the obligations of senior administrative offices, see Steven Lubet, “The Dean of BDS?” *The Bulwark*, June 29, 2020 at <https://thebulwark.com/the-dean-of-bds/> and David Bernstein, “Is Supporting Academic Boycotts of Israel Consistent with Administering an Academic Program?” *Reason*, May 12, 2020 at <https://reason.com/2020/05/12/is-supporting-academic-boycotts-of-israel-consistent-with-administering-an-academic-program/>.
- 69 Melissa Weiss, “GW University under fire for appointing BDS activist to head international affairs school,” *Jewish Insider*, May 20, 2020 at <https://jewishinsider.com/2020/05/gw-university-under-fire-for-appointing-bds-activist-to-head-international-affairs-school/>.
- 70 Mark G. Yudof and Ken Waltzer, “Majoring in Anti-Semitism at Vassar,” *Wall Street Journal*, February 17, 2016 at <https://www.wsj.com/articles/majoring-in-anti-semitism-at-vassar-1455751940>. See also Petra Marquardt-Bigman, “Demonizing Israel *Stürmer*-style at Vassar,” *Alums for Campus Fairness* at <https://www.campusfairness.org/demonizing-israel-sturmer-style-at-vassar>.

Attending faculty from the Jewish Studies Program, including one of the lecture's sponsors, offered no critical response. When a hard-hitting editorial in the *Wall Street Journal* exposed the event, taking Puar sharply to task for reviving the age-old antisemitic blood libel and contributing to antisemitism on the campus, rather than condemning her shameful and dangerous trafficking in anti-Jewish tropes and canards with impressionable undergraduate students, pro-BDS faculty rallied to protect one of their own from an alleged effort at censorship. The reality was that Puar had not been denied a podium. The defense was overwrought and overblown, and raised the nonsensical argument that a right to campus free expression somehow gives scholars who peddle in antisemitic rhetoric and imagery the right to be free of criticism. AEN called on both faculty and administrators at Vassar to exercise their own free speech rights to condemn Puar's hateful and hurtful presentation. Yet no such statements were forthcoming.⁷¹ Puar would continue to deliver similar talks at several universities that year, including the University of Illinois, Fordham University, Dartmouth University, and others. In Fall 2020, she provided the keynote for an annual conference of the New York State Communication Association.⁷²

The presence of BDS faculty in considerable numbers at an event may at times encourage coordinated political advocacy and approach actual indoctrination. One student reported such an event at the University of Arizona in April 2015 titled "University BDS and The Struggle for Justice in Palestine." Five faculty BDS advocates took part, two each from the English and History departments, two from American Studies, and one from Borderland Studies. The faculty denied that the academic boycott violated the value of academic freedom; stressed Israel's militarization and rejected a necessity for Israel's security fence as a counter-terror measure; celebrated the academic boycott by the American Studies Association; and, referencing a partnership between Israel's Rafael Defense Industries and the local Raytheon corporation, declared that Mexicans along the U.S. border were making "Iron Dome rockets that kill innocent Palestinians." Alexis Sherman, the student reporter, suggested that the event did not promote peace and misled students on the Tucson campus about BDS.⁷³

Highly politicized faculty members who teach courses in Anthropology, Middle East Studies, or Ethnic Studies, including (but not limited to) those who concentrate specifically on the Israeli-Arab conflict, may in some cases proselytize for BDS and allow their views to influence their teaching. This results in courses that

71 Andrew Pessin, "Scholars' Open Letter Defending Prof's 'Blood Libel' Garners 1,000 Signatures, Ignites Outrage Among Pro-Israel Groups," *The Algemeiner*, March 9, 2016 at <https://www.algemeiner.com/2016/03/09/scholars-open-letter-defending-profs-blood-libel-garners-1000-signatures-ignites-outrage-among-pro-israel-groups/>; see also Petra Marquardt-Bigman, "Discrediting Academia In Solidarity With Jasbir Puar's Demonization of Israel," *Alums for Campus Fairness*, March 22, 2016 at <https://www.campusfairness.org/discrediting-academia-in-solidarity-with-jasbir-puars-demonization-of-israel/>.

72 Faygie Holt, "Controversial professor's views on Israel prompt concern before convention appearance," *JNS*, October 15, 2020 at <https://www.jns.org/concerns-surround-controversial-rutgers-professors-appearance-at-new-york-communications-conference/> and Bassam Eid, "NYSCA stands by anti-Semitic keynote speaker," *JNS*, October 29, 2020 at <https://www.jns.org/opinion/nysca-stands-by-anti-semitic-keynote-speaker/>. This case underscores that the problem of biased teaching on the Israeli-Palestinian conflict extends beyond individual courses to guest lectures and extramural events, which may or may not be mandatory for students to attend. For example, at UC Berkeley, pro-Israel students have recently lodged complaints that the Center for Middle Eastern Studies has consistently failed to provide a diversity of viewpoints in its guest speaker series. See Shiri Moshe, "Zionist Student Group Accuses UC Berkeley Middle East Center of Anti-Israel 'Indoctrination,'" *The Algemeiner*, March 18, 2019 at <https://www.algemeiner.com/2019/03/18/zionist-student-group-accuses-uc-berkeley-middle-east-center-of-anti-israel-indoctrination/>.

73 Alexis Sherman, "Opinion: Israel Advocacy and BDS at the University of Arizona," *The Cameroon*, May 11, 2015 at <https://unitedwithisrael.org/israel-advocacy-and-bds-at-the-university-of-arizona/>.

fail to offer students a careful exploration and critical examination of multiple interpretations and views. Some faculty members who specialize in other areas of the humanities and social sciences also bring Israel into their teaching, often holding it up as a paradigmatic example of an illegitimate and immoral nation.⁷⁴ Thus, we must consider the reality that students also uncritically encounter the BDS narrative in introductory writing and general education courses, not only in courses on the Middle East or the Israeli-Palestinian conflict.

Politically active faculty members who teach courses in Middle Eastern Studies or Ethnic Studies, Anthropology, Women's and Gender Studies, as well as other disciplines in the humanities and social sciences—particularly those who concentrate on the Israeli-Arab conflict—may in some cases allow their opinions to influence their pedagogy. This can result in courses that politicize what should be a thoughtful exploration and examination of various interpretations and viewpoints. While faculty have academic freedom to teach their subject matter as they see fit, by teaching this complex and contentious subject matter only from the perspective of the virulently anti-Israel BDS perspective, courses can be so skewed that they skirt close to indoctrination.⁷⁵

It should go without saying that faculty have a professional obligation to support open inquiry and a responsibility to provide students with a fair and diverse curriculum as well as with accurate facts and information. Teaching from a one-sided perspective when there are many diverse viewpoints in the scholarship means that students are not being presented with all the facts or with different ways of parsing out and interpreting them. In addition, while students are entitled to present opposing viewpoints in a class, it is difficult to see how they would have the wherewithal to do so if all the course materials are skewed anti-Israel and anti-Zionist. As Cary Nelson notes:

It can be difficult or impossible for students to argue for a different position...whenever all the readings assigned for the course point in a different direction. They will have no readings in common on which to draw to represent opposing points of view or scholarly traditions...it is very difficult for pro-Israeli students to stand their ground in a classroom with no sympathetic readings to reference.⁷⁶

Of course, there are many scholars who are able to draw a clear distinction between their personal views and effective pedagogy. While they may advocate for and support BDS, they will not impose these beliefs on students in their classrooms and will respect the clear professional responsibility to help students learn a variety



T-shirt sold at Netroots Nation Conference, 2019

74 Nelson, "Conspiracy Pedagogy on Campus."

75 According to the American Association for University Professors (AAUP), "Indoctrination occurs when instructors dogmatically insist on the truth of... propositions by refusing to accord their students the opportunity to contest them. Indoctrination occurs when instructors assert such propositions in ways that prevent students from expressing disagreement." See AAUP Committee A on Academic Freedom and Tenure, "Freedom in the Classroom," *AAUP*, June 2007 at <https://www.aaup.org/report/freedom-classroom>.

76 Nelson, *Israel Denial*, pp. 282, 14.

of viewpoints in order to form their own conclusions. Faculty who vocally support the BDS movement, express open hostility to Israel, *and* purposefully close off their classes to other scholarship are acting differently in their pedagogical practices. For these faculty, some of whom believe political activism is their *raison d'être* both within and outside of the classroom, Israel exemplifies all the worst characteristics of a nation-state. They see it as a colonialist-racist-imperialist-fascist oppressor—and Zionism as the antithesis to social justice and progressive values—thus, Israel must be actively opposed. For such faculty, there is only one way of presenting Israel in the classroom: as a racist state akin to South Africa's apartheid system of racial segregation; a settler colonial state akin to white European colonizing states; and as a war-mongering country with alleged ties to American militarism and global intervention.⁷⁷

It is important to highlight that merely because a faculty member signals support for BDS and its narrative does not mean that she is creating a hostile classroom environment that encourages antisemitism. Faculty members who support the BDS movement do so for many diverse reasons, based on divergent knowledge, and are influenced by a range of disciplinary trainings. That being said, faculty who misuse their classrooms and abuse academic freedom to indoctrinate their students must be exposed. Nor is there any problem with identifying individuals as BDS supporters—if they have publicly acknowledged this stance themselves. We also maintain that while academic freedom protects the right of faculty to teach one-sided courses, it does not protect them from criticisms of their politically motivated syllabi or from condemnations of their pedagogical choices.⁷⁸

Above all, the university should be a space where the views and opinions of both BDS supporters and their critics can be heard.⁷⁹ Faculty are not obligated to create “balance” in a classroom, nor should they have their courses monitored and micro-managed to deliver such outcomes. Any interference with a course created and taught by a colleague would possibly be an infringement on that scholar's academic freedom. Those who are concerned about the ways in which courses on Israel are sometimes politicized must therefore be cognizant of the rights and responsibilities that academic freedom entails. What needs support is the general idea of creating a comprehensive curriculum in which diverse viewpoints and approaches to contentious issues are presented and explored. Faculty should still be able to speak their minds on a subject; objectivity inheres in faculty sharing their views while at the same time helping students to access and understand other competing viewpoints and perspectives so that they have the information they need to make up their own minds.⁸⁰

77 In *Israel Denial*, Nelson reviews the course syllabi of Joseph Massad at Columbia University and David Palumbo-Liu and Joel Beinin at Stanford University as “representative anti-Zionist courses” where the goal is to “build political convictions supportive of BDS activism among the students enrolled.” See pp. 269–276. This also appears to be the position of the U.S.-based faculty who signed onto various petitions and statements in May-June 2021 that explicitly reject teaching the Israeli-Palestinian conflict from a multiplicity of perspectives. See Elizabeth Redden, “‘An Unprecedented Wave’ of Palestinian Solidarity Statements,” *Inside Higher Ed*, June 2, 2021 at <https://www.insidehighered.com/news/2021/06/02/academic-statements-express-solidarity-palestinians-and-condemn-israeli-actions>.

78 Cary Nelson, “Israel and the Left: Three Studies of Crisis: (3) Israel Denial and the University,” *Fathom Journal*, July/2019 at <https://fathomjournal.org/israel-and-the-left-three-studies-of-the-crisis-3-israel-denial-and-the-university/>.

79 Ken Waltzer and Mark G. Yudof, “Blacklists: When Our Fellow Israel Defenders Go Too Far,” *Ha'aretz*, April 7, 2017 at <http://www.haaretz.com/opinion/1.782066>.

80 Examples of courses and classroom activities that offer students a multiplicity of viewpoints and perspectives on the Israeli-Palestinian conflict can be found in Nelson, *Israel Denial*, chapter 8; Rachel Harris, *Teaching the Arab-Israeli Conflict* (Wayne State University Press, 2019); and Kenneth Stern, *The Conflict Over the Conflict: The Israel/Palestine Campus Debate* (Toronto: University of Toronto Press, 2020), pp. 181–185. See also the simulation exercise for graduate students led by AEN Executive Director Miriam Elman at Syracuse University (“INSCT hosts Israeli-Palestinian Peace

Consistent with the guidelines issued by the AAUP in its 1940 Statement of Principles on Academic Freedom and Tenure, updated in 1970, academic freedom is fundamental for the protection of the rights of the teacher in teaching and carries with it duties correlative with rights.⁸¹ A scholar's right to academic freedom, then, is balanced by concurrent responsibilities. Faculty and students can engage in intellectual debate without fear of censorship or retaliation, and the political, religious, or philosophical beliefs of politicians, administrators, and members of the public cannot be imposed on either students or faculty. Academic freedom gives faculty and students the right to challenge one another's views without penalty. It also gives faculty substantial latitude in deciding how to teach the courses for which they are responsible. This, however, does not mean that faculty are entitled to harass, threaten, intimidate, ridicule, or impose their views on students; nor does it protect faculty from the challenges or disagreements that colleagues, students, and others may raise about their work and opinions.⁸² As noted in George Mason University Antonin Scalia Law School's recent statement on its "Commitment to Open Dialogue & Debate":

"Those who are concerned about the ways in which courses on Israel are sometimes politicized must therefore be cognizant of the rights and responsibilities that academic freedom entails. What needs support is the general idea of creating a comprehensive curriculum in which diverse viewpoints and approaches to contentious issues are presented and explored."

Professors and students each have exactly the same rights to express their opinions, to challenge views with which they disagree, and to participate as they see fit in the public life of the nation. They also have the same moral obligation to foster an atmosphere of civility and tolerance... We think it is self-evident that professors should not use their authority in the service of political or ideological indoctrination. We also think it is self-evident that professors should not belittle or intimidate students who express views with which the instructor disagrees... Individual professors decide what should be studied in their courses, what topics will be discussed in class, and what questions will be dealt with in the limited time that is available. Students are welcome to express their own opinions about these matters, but the professors are responsible for the decisions....

Process Simulation," at https://www.maxwell.syr.edu/news/stories/INSCT_Hosts_Israeli-Palestinian_Peace_Process_Simulation/).

81 AAUP, "Protecting Academic Freedom," at <https://www.aaup.org/our-work/protecting-academic-freedom>. See also Cary Nelson, "Defining Academic Freedom," *Inside Higher Ed*, December 21, 2010 at <https://www.insidehighered.com/views/2010/12/21/defining-academic-freedom>.

82 Nelson, *Israel Denial*, pp. 264–265.

In other words, faculty are free to pursue research and teaching, but they do not have the right to impose political views on other faculty or students. Similarly, the right to espouse views that reflect one's individual opinions or ideas must be balanced by the responsibility of allowing others to do the same.⁸³

In accordance with these basic premises, our suggestions for improving the classroom experience for students include:

- a. ***Press for rigorous faculty oversight of the curriculum:*** Faculty members can become involved with the university committees and governing bodies on their campuses that provide oversight for courses and curricular requirements. This includes student-led courses in those institutions where they are sponsored.

Consider, for example, an incident involving a student-led course at the University of California–Berkeley. During the 2016 fall semester, a course called “Palestine: A Settler Colonial Analysis” was offered through DeCal, Berkeley’s program of student-facilitated learning. The student-led course was sponsored by a lecturer who is a prominent BDS supporter and by the Ethnic Studies Department, which together were responsible for monitoring the “academic rigor” of the course. The syllabus, like all other DeCal syllabi, was submitted to the Committee on Courses of Instruction (COCI), which is part of Berkeley’s Academic Senate, to make sure it followed the guidelines created by that governing body for such courses.

Information about the course eventually became public; a number of outside groups declared it biased and pejoratively anti-Israel. In the resulting furor, the university canceled the class. Administrators later reversed this decision in response to the backlash that arose around the cancellation.⁸⁴ In the end, the student facilitator made some minor changes that, in our opinion, were cosmetic only, and the course proceeded largely as planned.⁸⁵ An analysis of the review process suggested that the course was reviewed in a cursory fashion. Thus, faculty clearly abdicated their responsibility—the oversight function. A properly functioning mechanism for vetting courses would most certainly have raised questions about the monocausal, accusatory framework of the course itself, something that was largely ignored.⁸⁶

- b. ***Insist that different courses be offered:*** Faculty members can work with administrators to offer alternative courses that can serve as counter-balances to those taught solely from a BDS perspective.

83 It is important to note that, as a constitutional matter, academic freedom is not well grounded in First Amendment jurisprudence. The concept of academic freedom has mostly given way to general free speech principles and to both state and university/college rules. Further, while the Supreme Court has praised academic freedom, it is difficult to find a case in which the principle has prevailed on constitutional grounds.

84 Miriam Elman, “Anti-Israel Activism Course Reinstated at UC Berkeley,” *Legal Insurrection*, September 20, 2016 at <https://legalinsurrection.com/2016/09/anti-israel-activism-course-reinstated-at-uc-berkeley/>.

85 Kasia Kovacs, “Berkeley Resumes Palestine Course,” *Inside Higher Ed*, September 20, 2016 at <https://www.insidehighered.com/news/2016/09/20/palestine-course-berkeley-reinstated-after-criticisms-violating-academic-freedom>.

86 See Nelson, *Israel Denial*, pp. 279–285. At the time, the AEN leadership team found the syllabus for the course to be tendentious in its unequivocal effort to cast Israel as a settler-colonial nation, with this framework the only one on offer to students. A full understanding of Israel within the scholarship and, thus, a more preferable pedagogical outcome, would have been to construct a course that included various interpretations rather than just a settler-colonial analysis. For these types of results, however, faculty need to act more assertively in course reviews and be engaged on such procedures over lengthy periods.

This has been a strategy adopted, for example, at Tufts University. On that campus, American Studies faculty member Thomas Abowd offered a course entitled “Colonizing Palestine” in the fall semesters of 2018 and 2019. Abowd’s class is offered through the Colonialism Studies program and is cross-listed with Women’s, Gender and Sexuality Studies. A course description says it will “explore the history and culture of modern Palestine and the centrality of colonialism in the making of this contested and symbolically potent territory.”⁸⁷ According to Tufts Friends of Israel co-presidents Sofia Friedman and Zachary Berman, “By blindly condoning this course under the guise of the ‘free exchange of ideas,’ Tufts is explicitly endorsing a parochial narrative that rejects Jewish indigeneity to the land of their origin.” However, Tufts spokesperson Patrick Collins noted that alternative course offerings are available for students: “The university offers a number of courses representing a wide variety of experiences and views, including, for example, a course last spring entitled ‘Visions of Peace in Israel/Palestine,’ a peer-led course exploring perspectives on the Israeli-Palestinian conflict, with a particular focus on ongoing grassroots peace efforts. We are fortunate to have many examples of positive, constructive dialogue at Tufts.”⁸⁸

Faculty can design courses within their own field of study that address and challenge the BDS narrative. Creating courses that are academically rigorous can be a daunting task, but resources are available to help. The Summer Institute for Israel Studies (SIIS) at Brandeis University offers a fellowship for faculty interested in learning more about Israel and the Israeli-Arab conflict and, with mentoring and guidance from SIIS faculty, developing and teaching courses in their home institutions. Faculty who may lack full confidence in their mastery of the subject may also explore teaming up with a colleague to team-teach a course or use elements of the curriculum structure—freshman seminars, special topics, independent studies, group studies, or other outlets, including capstone courses—to interact with students and address their expansive learning needs. There are a number of organizations that offer sample syllabi on their websites; see Appendix IV in this *Guide and Resource Book* (in particular, the site *Israel and the Academy* is a rich source for information). In addition, AEN regularly offers microgrants to support course development, as does the *Israel Institute*.

Faculty opposed to BDS must always be mindful of overriding the importance of academic freedom, freedom of inquiry and expression, and the application of these values. At AEN, we emphasize firmly that BDS supporters have the same rights to present their thoughts and join in conversations as other members of university communities. However, we point out that the BDS movement seeks to abuse the concept of academic freedom in promoting the academic boycott by determining that there are certain scholars who should be shunned because of their nationality. This is why we believe that all faculty, regardless of views on the conflict, should oppose BDS and its agenda.

BDS SCHOLARSHIP

Unlike guest lectures and extramural events, the impact of virulently anti-Israel and anti-Zionist scholarship is deeper and likely to have a more lasting impact, as these materials can significantly shape academic disciplines and will often inform public policy. The many virulently anti-Israel books being published at respectable presses also give propaganda a veneer of credibility (the journal *Critical Inquiry* and the University of California

87 See JTA and Penny Schwartz, “‘Colonizing Palestine’ Course at Tufts University Draws Criticism for ‘One-sided Narrative’ on Israel,” *Ha’aretz*, September 2, 2018 at <https://www.haaretz.com/us-news/colonizing-palestine-course-starts-academic-fight-at-tufts-1.6435324>.

88 Jackson Richman, *JNS*, and *Israel Hayom* Staff, “Despite Pushback, Tufts University to Again Offer ‘Colonizing Palestine’ Course,” *Israel Hayom*, August 11, 2019 at <https://www.israelhayom.com/2019/08/11/despite-pushback-tufts-university-to-again-offer-colonizing-palestine-course/>.

Press and Duke University Press are academic outlets that have been flagged as especially problematic).⁸⁹ As Cary Nelson recently noted, “The story of the Israelis and Palestinians cannot be fairly depicted as a Manichean struggle between good and evil. Yet this is exactly the story told in recent anti-Zionist teaching and publication.”⁹⁰

Several recent studies raise serious concerns regarding the review process and standards of a number of major university presses and academic journals that publish material on the topic of Israel and the Middle East conflict. As these studies have shown, false and unsubstantiated claims about Israel are being published in peer-reviewed books and essays. In a book co-published by AEN and Indiana University Press in 2019 ⁹¹, Cary Nelson takes a deep dive into the evidentiary claims and key arguments in a number of scholarly works that evince an extreme hostility and hatred toward Israel and Zionism.

Written by leading pro-BDS academics, including Judith Butler, Jasbir Puar, Saree Makdisi, and Steven Salaita, Nelson finds this work “sloppy” pseudo-scholarship at best and replete with “fantasy accusations” and “antisemitic conspiracies” at worst. Of particular concern is that these researchers failed to do basic literature searches and fact-checking or the necessary field work to back up their claims and assertions of alleged Israeli wrongdoing.⁹² Nelson issues a strong indictment not only of the scholarship produced, but of the outlets that publish it:

A whole system is now in place to grant delusional anti-Zionist claims credibility by giving them a university press imprimatur...Anti-Zionist teaching recruits students to those views and sends them into the world to enter the professions. Academic freedom was defined in the US one hundred years ago to protect faculty members from retaliation when they pursue truths that prove controversial. When faculty teaching is manipulative and faculty publications wholly unreliably, the cost is substantial.

THE IMPACT OF BDS ON FACULTY RELATIONS AND COLLEGIALITY

As mentioned earlier, there is also a form of academic boycott that is informal and difficult to document. At AEN, we have used the phrase “silent” or “stealth” boycott to point out this reality.⁹³ The movement to bar official cooperation with Israeli academic institutions works to delegitimize Israel and creates currents

89 David Mikics, “Ivory Tower Bigots,” *Tablet Magazine*, October 16, 2018 at <https://www.tabletmag.com/sections/arts-letters/articles/ivory-tower-bigots>; Peter Reitzes, “More Antisemitism at Duke University Press,” *The Algemeiner*, March 1, 2020 at <https://www.algemeiner.com/2020/03/01/more-antisemitism-at-duke-university-press/>; and Peter Reitzes, “How Anti-Israel Bias Corrupts Duke University Press,” *The Tower Magazine*, December 14, 2017 at <http://www.thetower.org/how-anti-israel-bias-corrupts-duke-university-press/>. In May 2021, the University of California Press issued a statement in which it announced a commitment to publishing work that endorses the BDS narrative. See David Bernstein, “Why Is UC Press Taking an Explicit Political/Ideological Position on the Conflict Between Israel and the Palestinians?” *Reason*, May 23, 2021 at <https://reason.com/volokh/2021/05/23/why-is-uc-press-taking-an-explicit-political-ideological-position-on-the-conflict-between-israel-and-the-palestinians/>.

90 Cary Nelson, “The Devil’s Intersectionality: Contemporary Cloaked Academic Antisemitism,” *The Journal of Contemporary Antisemitism* (Fall 2019): 1–10.

91 Nelson, *Israel Denial*.

92 See Nelson, “The Devil’s Intersectionality.” See also David Mikics, “Ivory Tower Bigots.”

93 Lidar Gravé-Lazi, “Carmi: Silent Boycotts a Worrisome Phenomenon,” *Jerusalem Post*, July 30, 2016 at <http://www.jpost.com/Israel-News/Politics-And-Diplomacy/Carmi-Silent-boycotts-a-worrisome-phenomenon-462775>.

on some campuses that block individual American academics from partnering with Israelis, attending and participating in Israeli conferences, or hosting visiting Israeli scholars. Some BDS supporters refuse to work with Israelis on principle; others, not as ideologically committed, nonetheless hesitate to invite Israeli scholars because they anticipate the controversy that will be stirred by those who are BDS supporters and maybe even potential professional costs. At AEN, we routinely receive reports from scholars who believe that they have been excluded or rejected from academic programs. One scholar in the Modern Language Association (MLA) wrote that her work was targeted simply because it is focused on an Israeli author.⁹⁴

The growing number of Israeli academics who report instances of discrimination exposes the speciousness of the claim that BDS only boycotts institutions, not individuals. Stealth boycotting occurs when Israeli academics are quietly shunned by colleagues—excluded from conferences, having their research proposals and manuscripts summarily rejected, and finding it difficult to place their graduate students into post-doctoral appointments.

An incident at Syracuse University involving an Israeli filmmaker and professor at New York University provides a case in point. The filmmaker, Shimon Dotan, was disinvited from a conference organized by a Syracuse University faculty member who feared reproach and even potential negative professional consequences from her pro-BDS colleagues were she to feature Dotan on her program. Dotan is a progressive critic of Israel whose film on Israeli settlements made clear his opposition to Israel's settlement policies in the West Bank. Nevertheless, a U.S.-based scholar—who confessed she had not yet viewed Dotan's film—was so sufficiently worried about blowback from senior faculty that she thought twice about hosting an Israeli academic on her campus, rescinding the prior invitation.⁹⁵

A related issue on campuses is the problem of graduate students and junior faculty who may be dissuaded from pursuing research on Israel because they fear that their possibilities for advancement will be derailed by influential faculty with divergent political views. There is no authoritative research on this subject; thus, impressions are anecdotal only. However, faculty are beginning to collect evidence of such pressures, and our national office has received phone calls asking for advice from individual faculty and advanced graduate students.⁹⁶ The academic and intellectual costs of this sort of self-censorship should not be minimized.

“The most important step that university leaders and faculty members can take is to speak out publicly against attempts to isolate, marginalize or penalize Jewish-Zionist faculty and Israeli scholars, either because of their political views or because of their nationality.”

94 Shellie McCullough, a lecturer at the University of Texas–Dallas, wrote in the MLA Referendum Comment Board on the *MLA Members for Scholars' Rights* website, “My research was targeted merely because I wrote on an Israeli, not because I am Israeli. Let that sink in, and ponder what recourse I have against this as an adjunct.”

95 Miriam Elman, “The Pressure on American Academics to Conform to BDS,” *Ha'aretz*, September 7, 2016 at <http://www.haaretz.com/opinion/1.740723>. See also Conor Friedersdorf, “How Political Correctness Chills Speech on Campus,” *The Atlantic*, September 1, 2016 at <https://www.theatlantic.com/politics/archive/2016/09/what-it-looks-like-when-political-correctness-chills-speech-on-campus/497387/> and Satoshi Sugiyama, “How the Israeli filmmaker controversy has resonated with the Syracuse University community,” *Daily Orange*, September 6, 2016 at <http://dailyorange.com/2016/09/disinvitation-filmmaker-resonated-su-community/>.

96 Cary Nelson, “Conspiracy Pedagogy on Campus.”

Faculty may also feel the sting of rebuke and censure from colleagues solely on account of their pro-Zionist identities. One AEN faculty member at the University of North Carolina, Wilmington recently wrote about how he was deemed a “threat” because his defense of Israel made him a “political reactionary by definition”:

Why was I a threat? Is it because I am a Zionist who has written against the boycott, divestment and sanctions movement against Israel? The anti-Zionist left has adopted the pernicious tactic of inserting Palestinian liberation into virtually every domestic cause. ‘Palestine is a disability issue’; ‘no walls from Mexico to Palestine’; ‘you can’t be pro-LGBT if you support the occupation’ are omnipresent, facile and utterly illogical slogans one now hears at demonstrations and on college campuses...As a supporter of Jewish self-determination in our ancestral homeland, I was a threat to the disabled.”⁹⁷

In their 2018 book, AEN members Andrew Pessin and Doron Ben-Atar detail individual stories of faculty (many of them also AEN members) who have run afoul of BDS opinion in varied ways, not merely due to student actions but also to actions taken by faculty colleagues, resulting in harsh personal consequences on their campuses.⁹⁸ As Ben-Atar and Pessin note in their introduction to the volume:

Even in cases where the individual who was falsely smeared or accused is exonerated, the damage to his or her personal and professional reputation is already done and the experience leaves the individual battered and scarred. Not only is this devastating to the individual, but the failure of universities to stand up to the bully tactics of the BDS movement fosters a climate of fear that subdues and intimidates students, faculty, and staff.⁹⁹

The impetus for the book was Pessin’s own experiences in the spring of 2015 when, as a result of a misunderstood Facebook post that he had written that was harshly critical of Hamas, he was subjected to a months-long smear campaign. Tellingly, this manufactured outrage against Pessin was initiated by anti-Israel student activists affiliated with the campus Students for Justice in Palestine chapter, but faculty colleagues soon joined the fray. The university administration catered to the aggrieved and supposedly traumatized activist students, endorsing their misreading of Pessin’s social media post. Pessin—a tenured professor with an impeccable record of research and teaching—would ultimately be publicly denounced as a bigot by dozens of Connecticut College’s departments, centers, and programs. This disgraceful case of public shaming has been dubbed the “Pessin Affair” and is now chronicled in an edited book by AEN member Richard Landes.¹⁰⁰

The most important step that university leaders and faculty members can take is to speak out publicly against attempts to isolate, marginalize or penalize Jewish-Zionist faculty and Israeli scholars, either because of their political views or because of their nationality. Faculty who are targeted may wish to alert the media,

97 Jarrod Tanny, “When I Discovered That My Anti-Racist Colleague Is an Anti-Semite,” *Jewish Journal*, January 8, 2020 at https://jewishjournal.com/culture/first_person/309331/when-i-discovered-that-my-anti-racist-colleague-is-an-anti-semite/.

98 Andrew Pessin and Doron S. Ben-Atar, eds., *Anti-Zionism on Campus: The University, Free Speech and BDS* (Bloomington: Indiana University Press, 2018).

99 Pessin and Ben-Atar, *Anti-Zionism on Campus*, pp. 23–24.

100 Richard Landes, ed., *Salem on the Thames: Moral Panic, Anti-Zionism, and the Triumph of Hate Speech at Connecticut College* (Brookline, MA: Academic Studies Press, 2020). For a review, see Elliot Kaufman, “We Found Our Outrage,” *Jewish Review of Books* (Summer 2020) at <https://jewishreviewofbooks.com/articles/7903/we-found-our-outrage/>.

pro-Israel advocacy organizations, or seek legal counsel. Formal complaints should also be documented and lodged with department heads as well as relevant university offices (e.g., Office of the Provost, Academic Affairs, Faculty Affairs, the Office for Equity, Diversity and Inclusion). Various actions may involve some professional risk, but this varies for tenured or non-tenured faculty and for graduate students.

A FINAL WORD

In the eyes of the public, BDS may appear to be an entirely unsuccessful enterprise. Despite the promotion of anti-Israel resolutions and statements year after year, not a single university administration has been willing to close down a study abroad program in Israel, much less allow students to determine the university's investment policies by endorsing BDS. This failure to ultimately change university policy, however, has not deterred its supporters. As AEN's Executive Director Miriam Elman has argued, the priority for BDS activists is not to pass resolutions but rather to have campuses endlessly roiled in bitter debates over Israel:

It's important to realize that actual divestment isn't the purpose...The goal is to hijack student government time and effort, and to get student newspaper and local media coverage. What they want is lots of space to present how awful Israel allegedly is, and to convince more students that the BDS perspective is the only way to think about Israel and its conflict with the Palestinians. So even if they lose a particular divestment vote it's really a win and victory from their perspective, because it's given them space and time to disseminate their materials and viewpoint in a highly visible way to the campus community."¹⁰¹

Nelson similarly points out that:

...every acrimonious debate wins hearts and minds, turning students and faculty into long-term anti-Zionists, convinced that there is nothing virtuous about the democratic and Jewish state. And in the process zealots are born. Those zealots can decide that a balanced education is an expendable campus priority. For faculty members, that can mean abandoning the fundamental search for truth and devoting their apolitical teaching and scholarship to propaganda.¹⁰²

Understanding complex political, social, and religious issues and intractable conflicts requires more than a single orthodoxy and simplistic answers. To advance knowledge, campuses must respect a diversity of viewpoints and support a climate of inclusion. With anti-Israel and anti-Zionist sentiment solidifying across a number of disciplines and subdisciplines, faculty and university leaders must continue to stand up for the core functions and bedrock principles that sustain academia: intellectual rigor and evidence-based arguments, fairness and civil discourse, and professional standards.

101 Toni Airaksinen, "Colleges reject BDS demands for 9th straight year," *Campus Reform*, June 18, 2018 at <https://www.campusreform.org/?ID=11032>.

102 Nelson, "Israel and the Left."

CHAPTER 9.

ANTI-ZIONISM IN PROFESSIONAL ACADEMIC ASSOCIATIONS, 2019–2020

SPENCER KENT

Frequent failure has not deterred Boycott, Divestment, and Sanctions (BDS) proponents from continuing to push anti-Israel resolutions, including, but not limited to, resolutions calling for an academic boycott of Israel at professional academic associations in the United States.¹ As with many prior efforts, the resolutions that were fielded in the last several years presented misleading and sometimes inaccurate claims about Israel and its treatment of the Palestinians. Distinctive among these more recent Israel-related resolutions at professional academic associations was their suggestion that Israel is primarily responsible for undermining academic freedom, open inquiry, and free expression in Palestinian universities on the West Bank and in Gaza.

AMERICAN HISTORICAL ASSOCIATION (JANUARY 2020)

In January 2020, two separate anti-Israel resolutions were voted down (80-41 and 61-36) at the annual meeting of the American Historical Association (AHA).² The defeats marked the fourth time that Israel-related resolutions have been rejected at the AHA. As in prior years, the resolutions were introduced and promoted by a small group of historians in the AHA calling themselves Historians for Peace and Democracy (H-PAD). H-PAD began in 2003 as Historians Against the War with the intention of protesting against the war in Iraq. However, it evolved to embrace other causes, including the censuring of Israel.³ At the 2020 AHA

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- 1 This essay addresses academic boycott resolutions that have been fielded and discussed, as well as put up for a membership vote, in recent years. For a discussion of earlier boycott activity in professional associations prior to 2019, refer to AEN's 2017 *Guidebook, Academic Freedom, Freedom of Expression, and the BDS Challenge—A Guide and Resource Book for Faculty*, pp. 22–28.
 - 2 Colleen Flaherty, “Historians Against ICE,” Inside Higher Ed, Jan. 7, 2020, at <https://www.insidehighered.com/news/2020/01/07/historians-approve-anti-ice-resolution-vote-down-anti-israel-proposals-their-annual>.
 - 3 Historians for Peace and Democracy, “About Us,” accessed January 25, 2021, at <https://www.historiansforpeace.org/about-us>.

conference, H-PAD introduced a “Resolution on Protecting the Right to Education in Palestine-Israel” and a “Resolution on Academic Freedom of US Citizens Visiting Israel and Palestine.”⁴

The first resolution condemned Israel for “acts of violence and intimidation ... against Palestinian researchers and their archival collections,” called for an “immediate halt to Israel’s policy of denying entry to foreign nationals seeking to promote educational development” on the West Bank and in Gaza, and called on Israel to “provide free access for Palestinian faculty and students alike to pursue their education wherever they choose.” The second resolution repeated the call for an immediate halt to Israel’s policy regarding entry of foreign nationals and further “[demanded]” that the U.S. State Department “honor the academic freedom of US citizens by contesting Israel’s denials of entry of US academics who have been invited to teach, confer, or do research at Palestinian universities.”⁵

Opposition to the resolutions was spearheaded by several AHA-affiliated scholars who are active in the Academic Engagement Network (AEN) and also serve in leadership roles in the Alliance for Academic Freedom (AAF), a voluntary organization of scholars who “reject the notion that one has to be either pro-Israel or pro-Palestinian.”⁶ The AAF, with assistance from the AEN Leadership Team, prepared two substantial frequently asked questions (FAQ) documents that helped to refute the resolutions’ misleading claims about restrictions on Palestinians’ academic freedom and mobility in Israel and on the West Bank. The documents, which were distributed widely to AHA members and other historians, highlighted that the resolutions unfairly condemned Israel for restrictions on academic freedom in Palestinian universities, omitted important information about the overall security context on the West Bank, and elided any discussion about the Palestinian Authority and Hamas’s own role in silencing dissent and restricting academic freedom and free expression in Palestinian educational institutions.⁷ The AAF-crafted documents also raised another important point: “The AHA is the wrong venue for this. Complex issues like these are best debated in the political arena, not a scholarly professional organization. Many other organizations exist for activism about the Middle East. The AAF-crafted documents also raised the important point that “[many] other organizations exist for activism about the Middle East” and that therefore, “the AHA should not be in the business of developing its own foreign policy.”⁸

Concurring with the AAF, AEN member Jeffrey Herf (University of Maryland) wrote that the attempt to politicize the AHA was an attempt to “misuse the professional prestige of this organization for political purposes.”⁹

4 American Historical Association Staff, “Resolutions for Consideration at the January 2020 Business Meeting,” *Perspectives on History*, December 17, 2019, at <https://www.historians.org/publications-and-directories/perspectives-on-history/december-2019/resolutions-for-consideration-at-the-january-2020-business-meeting>.

5 Ibid.

6 Shiri Moshe, “American Historical Association Rejects Anti-Israel Resolutions for Fourth Time,” *The Algemeiner*, January 6, 2020, at <https://www.algemeiner.com/2020/01/06/american-historical-association-rejects-anti-israel-resolutions-for-fourth-time>.

7 Ibid.

8 Ibid.

9 Jeffrey Herf, “Historians Defeat Resolutions Denouncing Israel,” *The American Interest*, January 10, 2020, at <https://www.the-american-interest.com/2020/01/10/historians-defeat-resolutions-denouncing-israel>.

AMERICAN POLITICAL SCIENCE ASSOCIATION, FOUNDATIONS OF POLITICAL THEORY SECTION (AUGUST 2019)

Scholars affiliated with one of the organized sections of the American Political Science Association (APSA), Foundations of Political Theory, introduced for discussion an Israel academic boycott resolution at the association's annual meeting in August 2019. The resolution maintained that Israel's "colonization of Palestine" is to blame for "consistently and brutally" denying academic freedom to Palestinians, thereby justifying the proposed boycott.

Israeli academic institutions are complicit in Israel's settler colonization of Palestine, and the attendant ethnic cleansing, dispossession, military occupation and apartheid policies that constitute this colonization...colonization consistently violates the academic freedom of Palestinian students and faculty to attend school, conduct research and make contributions to knowledge. The colonization of Palestine is the silencing of Palestinian scholarly contributions to knowledge.¹⁰

In a particularly offensive "Academic Boycott FAQ" that accompanied the resolution, harm that the proposed academic boycott would cause to Israeli academics was dismissed by analogizing it to the experiences of white bus drivers in Montgomery, Alabama, who felt "alienated or upset by black folks' boycotting their segregated buses." The FAQ also accused Israel of "genocidal brutalities" and endorsed the use of extrajudicial violence: "Palestinian violence can and should be understood as the exercise of the internationally recognized right of self-defense by a people facing eliminatory colonial and military violence."¹¹

Ultimately, the proposed resolution experienced a colossal defeat.¹² Over 120 conference participants attended the August 31 special meeting of the Foundations of Political Theory section, where the resolution would be discussed. Many speakers spoke out loudly and eloquently against the resolution and against BDS. In addition, the section chair noted that she had received some 360 emails regarding the resolution, of which some 80% were in opposition. The chair summarized those emails, listing the many reasons why members opposed the motion, and concluded the meeting by rejecting the proposed resolution as opposed to the views of the section.

AEN played an important role in defeating the proposed resolution. Prior to the section meeting, the AEN leadership wrote to the Executive Director of APSA, Steven Rathgeb Smith, to alert him to the inflammatory claims in the "Academic Boycott FAQ" and register AEN's unequivocal opposition to the motion and the reasons why.¹³

10 https://gallery.mailchimp.com/33170cf42f40c39f6972ef9ec/files/e2a0537a-9ef7-4a47-8ee7-e0d5b579f018/Academic_Boycott_Resolution_Foundations_Section_1_3_.pdf.

11 Memorandum, American Political Science Association, Academic Boycott FAQ (on file with authors).

12 "Resolution to Boycott Israeli Academic Institutions Thwarted at Annual Poli-Sci Conference," *Jewish News Syndicate*, September 3, 2019, at <https://www.jns.org/resolution-to-boycott-israeli-academic-institutions-thwarted-at-annual-poli-sci-conference>.

13 AEN letter to Steven Rathgeb Smith, Executive Director, APSA (August 14, 2019), at https://gallery.mailchimp.com/33170cf42f40c39f6972ef9ec/files/e96b46c5-2a38-42aa-9a96-83a217863eee/AEN_Letter_Against_APSA_Boycott_Res_8.14.19_1_.pdf.

SOCIETY FOR THE STUDY OF SOCIAL PROBLEMS (JULY 2019 AND JULY 2020)

In 2019, a resolution calling for the academic boycott of Israel at the Society for the Study of Social Problems (SSSP), a relatively small academic professional organization composed mainly of sociologists, ultimately yielded a loss for those pushing BDS and was narrowly defeated.¹⁴ Undeterred, BDS proponents in the SSSP tried unsuccessfully once again in 2020 to pass an Israel academic boycott resolution, which was nearly identical to the resolution that failed in 2019. As with the APSA/Foundations of Political Theory resolution discussed above, proponents of the SSSP resolutions justified the call for an academic boycott on the grounds that Israel is “limiting,” “inhibiting,” and “routinely violating” the academic freedom of Palestinian scholars and students, with these allegations featured throughout the proposed resolutions.

Voting at the 2020 SSSP annual conference was conducted online due to the COVID-19 pandemic. Despite the pandemic limiting the ability of the association’s membership to engage in a debate over the resolution, proponents insisted on fielding it. AEN faculty members in sociology and adjacent fields (e.g., psychology, political science, and law) wrote to the SSSP leadership to voice their opposition and concerns, posted written comments on the open discussion board on the SSSP website, and spoke against the resolution during the virtual meeting. The AEN Leadership Team also wrote a letter¹⁵ to the SSSP leadership highlighting the flaws and double standards in the resolution. While a narrow majority of eligible SSSP members who voted on the resolution (53%) voted in favor of the BDS resolution, the SSSP’s bylaws required two-thirds of the voters to affirm in order for the resolution to pass.

CONCLUSION: A NOTE ON ACADEMIC FREEDOM IN PALESTINIAN AND ISRAELI UNIVERSITIES

Claims that Israel discriminates against Palestinian and foreign national academics and students have been used increasingly to justify the boycott of Israeli academic institutions, to cancel study abroad programs in Israel, and to shutter educational exchanges between U.S. and Israeli universities. It is not difficult to see why: if you can show that Israel is responsible for undermining academic freedom in the West Bank and Gaza, then it is likely that more scholars will consider the censure of Israel as entirely justified. However, the reality is that while academic freedom and free speech have long been compromised at universities in the West Bank and Gaza, Palestinian governing institutions are largely responsible for the most serious and fundamental threats to academic freedom on Palestinian campuses—a fact that is either poorly understood or willfully ignored by pro-BDS activists.¹⁶ Cary Nelson, former President of the American Association of University Professors,

14 David Gerstman, “Major US Academic Association Votes Down Resolution to Boycott Israel,” *The Algemeiner*, August 12, 2019, at <https://www.algemeiner.com/2019/08/12/major-academic-association-votes-down-bds-resolution/>.

15 AEN letter to Daina Cheyenne Harvey, Vice President and Chair, Committee on Social Action, SSSP (August 4, 2020), at <https://academicengagement.org/wp-content/uploads/2020/08/AEN-Letter-Opposed-to-SSSP-Resolution-on-Israel-Academic-Boycott-8.4.2020.pdf>.

16 Nick Riemer, “The Attack on Palestinian Universities,” *Jacobin Magazine*, December 30, 2018, at <https://www.jacobin-mag.com/2018/12/palestinian-universities-higher-education-israeli-violence>. Nor is there factual evidence to support the claim that Israel is randomly denying teaching and educational opportunities in Israel or the West Bank to U.S.-based scholars and students. In the last three years, for example, only 16 foreign nationals have been barred from entry into

meticulously documents in a newly published study how threats to academic freedom on Palestinian campuses come mostly from the Palestinian Authority and from members of Palestinian society, not from Israel.¹⁷ Nelson's research shows that, unlike academic institutions in the West, Palestinian universities afford students and faculty relatively little freedom of expression. Students and faculty on Palestinian campuses generally are not free to openly criticize governing authorities, and student-led disruptions and even violence are too often tolerated. There is also an absence of peace education and activism on Palestinian campuses because pro-peace faculty and students are routinely intimidated and harassed—often violently. When it comes to academic freedom and freedom of speech, especially on topics related to religion and politics, Palestinian campuses stand in stark contrast to institutions in the West and in Israel.

To some, this may beg the question of what degree of academic freedom exists within Israeli universities. This question could be explored in many different ways. One way to understand the relative degree of academic freedom that exists between countries is the Academic Freedom Index (AFi).¹⁸ This index was produced collaboratively by a group of scholars at the Global Public Policy Institute (GPPi), the Friedrich-Alexander-Universität Erlangen-Nürnberg (FAU), the Scholars at Risk Network, and the VDem Institute.¹⁹ They conceptualize and measure academic freedom on the basis of five factors: freedom to research and teach, freedom of academic exchange and dissemination, institutional autonomy, campus integrity, and freedom of academic and cultural expression.²⁰ The AFi ranks countries based on academic freedom using a scale from zero to one, with zero being the least free and one being the most free.

A March 2021 report from GPPi that utilizes the AFi lists Israel as having a rating of 0.936, which is described as “A status,” meaning that it is one of the world's freest countries in this respect.²¹ For comparison, the ratings of the countries neighboring Israel were all much lower. Lebanon received a score of 0.602, which is described as “B status.” Jordan received a rating of 0.308, which is described as “D status.” Egypt received a 0.080, Saudi Arabia received a rating of 0.076, and Syria received a 0.054, giving all three of them an “E.”²²

Israel on BDS-related criteria. Of those, only one was an academic: Columbia University faculty member Katherine M. Franke was deported and barred from Israel in 2018 on account of her senior and significant position in the virulently anti-Israel and pro-BDS organization Jewish Voice for Peace. However, Israel's Ministry of Strategic Affairs reversed its decision in August 2020. See Nelson, *Not in Kansas Anymore*, p. 132 and Lahav Harkov, “Government reevaluating ban on BDS activists entering Israel,” *The Jerusalem Post*, August 13, 2020, at <https://www.jpost.com/israel-news/government-reevaluating-ban-on-bds-activists-entering-israel-638505>. While foreign academics face difficulties traveling to the West Bank to teach and study, Israel is not arbitrarily denying them entry there either. The reasons are often quite mundane and pedestrian, as when the requirements for obtaining visas are circumvented—actions that would cause many a government official to deny someone a visa application. See Nelson, *Not in Kansas Anymore*, pp. 133–136.

17 Cary Nelson, *Not in Kansas Anymore: Academic Freedom in Palestinian Universities* (Academic Engagement Network, 2021), p. 20.

18 Elizabeth Redden, “Ranking Academic Freedom Globally,” *Inside Higher Ed*, March 30, 2020, at <https://www.insidehighered.com/news/2020/03/30/new-index-rates-countries-degree-freedom-scholars>.

19 Katrin Kinzelbach, Ilyas Saliba, Janika Spannagel, and Robert Quinn, “Free Universities: Putting the Academic Freedom Index into Action,” Global Public Policy Institute, March 2021, https://www.gppi.net/media/KinzelbachEtAl_2021_Free_Universities_AFi-2020.pdf.

20 Ibid.

21 Ibid.

22 Ibid.

While Israel and the United States were both listed as being “A status,” Israel was calculated as having a slightly higher AFi score than even the United States.²³

23 Ibid.

CHAPTER 10.

ATTACKS ON STUDY ABROAD AND EXCHANGE PROGRAMS WITH ISRAELI INSTITUTIONS

RAEEFA Z. SHAMS

Colleges and universities throughout the United States have long held extensive ties with academic institutions in Israel. Thousands of students spend a summer, semester, or year abroad in Israel. Faculty members engage in research exchanges and collaborations with their counterparts from Israeli institutions. Many colleges and universities have dedicated study abroad programs at Israeli institutions that focus on a wide range of academic disciplines, from technology and entrepreneurship to history, religion, and modern languages. Some even have high-level research partnerships with Israeli institutions.

These collaborative efforts have come under attack from supporters of the Boycott, Divestment, and Sanctions (BDS) movement, including several recent incidents specifically initiated by faculty members. In September 2018, a professor in the Department of American Culture at the University of Michigan refused to write a letter of recommendation for a student who sought to study abroad at Tel Aviv University, explicitly citing his support for the campaign to boycott Israeli academic institutions.¹ In March 2019, Pitzer College's College Council voted to pass a faculty-originated motion to suspend Pitzer's direct-enroll study abroad program at the University of Haifa in Israel.² In May 2019, the Department of Social and Cultural Analysis at New York University (NYU) adopted a resolution to boycott NYU's study abroad program at Tel Aviv University.³

While these may seem like individual grassroots efforts on the part of concerned faculty, they actually align with concrete guidelines put forth by the US Campaign for the Academic and Cultural Boycott of Israel (USACBI), which "calls on all US faculty, administrators, students and staff to uphold the academic boycott

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- 1 Shiri Moshe, "University of Michigan 'Disappointed' After Professor Refuses to Write Recommendation Letter for Student Studying Abroad in Israel," *The Algemeiner*, September 17, 2018, at <https://www.algemeiner.com/2018/09/17/university-of-michigan-professor-refuses-to-write-recommendation-letter-for-student-studying-abroad-in-israel/>.
 - 2 Aaron Bandler, "Pitzer College Council Votes to Suspend Israel Study Abroad Program," *The Jewish Journal*, March 14, 2019, at https://jewishjournal.com/los_angeles/295241/breaking-pitzer-passes-motion-to-suspend-israel-study-abroad-program/.
 - 3 NYU Department of Social and Cultural Analysis, "Statement About Pledge of Non-Cooperation with Study Abroad Program in Israel," at <https://as.nyu.edu/content/nyu-as/as/departments/sca/about/resolution.html>.

of Israel by refusing participation in Study Abroad programs in Israel.”⁴ As part of this campaign, USACBI developed a four-page “Toolkit for Activists” launched in 2018, in which it outlined potential actions and talking points that could be used by supporters of the academic boycott. These included accusing study abroad programs in Israel of “discriminat[ing] based on ethnic and religious backgrounds,” “violat[ing] academic freedom,” and “discriminat[ing] based on political views.”⁵

These accusations, which are often reflected almost verbatim in the arguments made by supporters of boycotting study abroad programs in Israel, are based on simplistic, one-sided readings of a complex situation. For example, they deliberately misrepresent Israeli government policies, such as a March 2017 amended Entry into Israel Law (under review as of this writing), which currently bars foreign national activists who serve in “senior or significant positions/roles” in organizations that actively promote anti-Israel delegitimization and boycotts. While many anti-BDS academics consider this entry law to be shortsighted and misguided, it is important to note that only 16 foreign nationals have been barred from entry into Israel on BDS-related criteria and, of those, only one was an academic. Thus, stated fears of discrimination due to ethnic or religious background, or political viewpoint, are grossly overblown.⁶

In addition, the accusations ignore the far worse track records of many other countries (including other democracies, such as the United States and the United Kingdom) on issues related to access to education, omit any mention of concerns over security in their criticisms of Israeli policy, and condemn Israel without discussing how Hamas, the Palestinian Authority, Egypt, and Jordan play a more central role in denying Palestinian educational opportunities and violating academic freedom.⁷

These campaigns against study abroad programs in Israel, if they were ever to be implemented, are fundamental violations of academic freedom that would deprive faculty and students of professional and academic opportunities, and academic institutions of the benefits of international collaboration. They uphold a double standard in which Israel—and *only* Israel—is singled out for opprobrium, while the human rights abuses of other nations escape such scrutiny. They hinder intercultural exchange, preventing members of the campus community from experiencing the richness, dynamism, and complexity of contemporary Israel in the same



- 4 US Campaign for the Academic and Cultural Boycott of Israel, “We Will not Study in Israel Until Palestinians Can Return: Boycott Study Abroad in Israel!,” at <https://usacbi.org/boycott-study-abroad-in-israel/>.
- 5 US Campaign for the Academic and Cultural Boycott of Israel, “Study Abroad in Israel Boycott Campaign: Toolkit for Activists,” at <https://usacbi.org/wp/wp-content/uploads/2018/09/Study-Abroad-in-Israel-Boycott-Campaign-%E2%80%93-Toolkit-for-Activists.pdf>.
- 6 For an extended discussion on the March 2017 amended Entry into Israel Law, please refer to pp. 129–136 of *Israel Denial*, by Cary Nelson (a former American Association of University Professors President, Emeritus Professor of English, and Jubilee Professor of Liberal Arts and Sciences at the University of Illinois at Urbana–Champaign).
- 7 In *Not in Kansas Anymore*, the inaugural paper in AEN’s Research Paper Series, Cary Nelson details extensively the causes and consequences of systematic violations of academic freedom within Palestinian universities. Available at <https://academicengagement.org/not-in-kansas-anymore/>

way they would any other country.⁸ Furthermore, and perhaps most significantly, they have a chilling impact on the campus climate, in which those who seek to teach, study, or conduct research in Israel will avoid publicizing their plans to avoid backlash and ostracism, resulting in the “anti-normalization” of Israel sought after by pro-BDS advocates.

Fortunately, administrators have generally responded to these situations with strong condemnations:

- The University of Michigan (UM) disciplined the professor who refused to write a letter of recommendation for his student—he was denied a merit raise for the 2018–19 academic year and was prevented from taking any sabbatical for two years.⁹ In a letter sent to the professor, the interim dean of UM’s College of Literature, Science and the Arts wrote that his “conduct has fallen far short of the University’s and College’s expectations for how LSA faculty interact with and treat students,” and that he was “not to use student requests for recommendations as a platform to discuss [his] personal political beliefs.”¹⁰ In addition, the Academic Engagement Network collaborated with the Anti-Defamation League (ADL) to develop a model policy for future letters of recommendation.¹¹ The model policy states that faculty members’ “primary considerations ought to be academic merit and the student’s qualifications” and that “the decision to express or withhold support for students in the form of recommendation letters should not be influenced by political considerations.”¹² (See Appendix 3c.)
- At Pitzer College, President Melvin L. Oliver firmly rejected the decision of the College Council to suspend study abroad at the University of Haifa, arguing that it would “cause the College...to take an unavoidably political position on one of the most controversial issues of our time,” “curtail the academic freedom of those students who wish to study at the University of Haifa,” and “run directly counter to Pitzer’s core value of intercultural understanding.”¹³ Significantly, President Oliver also condemned the particular nature of anti-Israel boycotts, stating that the College Council’s recommendation “puts in place a form of academic boycott of Israel and, in the process, sets us on a path away from the free exchange of ideas, a direction which ultimately destroys the academy’s

8 The Pitzer College campaign to suspend study abroad at the University of Haifa is particularly ironic considering that it is the Israeli university with the highest proportion (over 40%) of Arab-Israeli students. See Lior Dattel, “Number of Arabs in Israeli Higher Education Grew 79% in Seven Years,” *Haaretz*, January 24, 2018, at <https://www.haaretz.com/israel-news/number-of-arabs-in-israeli-higher-education-grew-79-in-seven-years-1.5763067>

9 Kim Kozlowski, “UM disciplines prof over Israel letter controversy,” *The Detroit News*, October 11, 2018, at <https://www.detroitnews.com/story/news/local/michigan/2018/10/09/university-michigan-disciplines-professor-over-israel-letter-controversy/1580969002/>.

10 Ibid.

11 Ben Cohen, “ADL Joins With Leading Scholars to Urge New Policy on Faculty Recommendations Following Recent University of Michigan BDS Scandals,” *The Algemeiner*, November 15, 2018, at <https://www.algemeiner.com/2018/11/15/adl-joins-with-leading-scholars-to-urge-new-policy-on-faculty-recommendations-following-recent-university-of-michigan-bds-scandals/>.

12 Academic Engagement Network and Anti-Defamation League, “Faculty Guidance for Letters of Recommendation,” at <https://www.adl.org/media/12164/download>. The model policy is significant given that the University of Michigan case was not unique. Hundreds of faculty on campuses across the United States signed on to petitions expressing solidarity with the professor and pledging to also refuse to write letters of reference for their own students to study abroad in Israel.

13 Pitzer College, “Message to the Pitzer College Community from President Melvin L. Oliver,” March 14, 2019, at <https://www.pitzer.edu/president/message-to-the-pitzer-college-community-from-president-melvin-oliver/>.

ability to fulfill our educational mission” and that by “singling out Israel, the recommendation itself is prejudiced...we do not solve one injustice by committing another.”¹⁴ (See Appendix 3c.)

- At New York University, the administration stated that NYU was “deeply committed to [its] vibrant program in Tel Aviv” and “deplore[d] this uncollegial and pointless effort to stigmatize the Tel Aviv program, as well as the students and faculty who study there.”¹⁵

It is imperative that campus administrators continue to exercise moral leadership through their words and actions—promoting their institutions’ existing relationships with Israeli institutions, highlighting the importance of academic freedom and intercultural exchange, and condemning the discriminatory and counterproductive nature of BDS-inspired attacks on study abroad in Israel. Considering that the COVID-19 pandemic has put most study abroad programs on hold, administrators should ensure that study abroad programs in Israel remain options for students once health conditions nationally and globally permit them to reopen.

14 Ibid.

15 New York University, “Institutional Statement from NYU Spokesman John Beckman on SCA Vote Regarding NYU Tel Aviv,” May 3, 2019, at https://www.nyu.edu/about/news-publications/news/2019/may/SCA_Boycott_Tel-Aviv.html.

PART IV.

CONCLUSIONS

CHAPTER 11.

ANTICIPATING CHALLENGES: FUTURE TRENDS IN CAMPUS ANTI-ISRAEL ACTIVISM

RAEEFA Z. SHAMS

As of this writing, multiple overlapping and intersecting challenges are impacting society as a whole: a global pandemic that has disrupted the routines and rituals of daily life and left many uncertain, isolated, and unmoored; a renewed focus on issues relating to racial justice and equity throughout American institutions; and an increased and self-reinforcing political polarization that has fueled anger and distrust toward fellow citizens. College and university campuses, as products of and key influences on the broader societal landscape, are certainly not immune from the effects of these challenges.

The campus anti-Israel movement has adapted to and taken advantage of these challenges and their auxiliary effects. We anticipate that it will continue to do so in the upcoming months and years in the following ways:

Cyber-bullying and online harassment of Jewish and Zionist students: Many observers had initially anticipated that the campus pivot to remote learning in Spring 2020 would lead to a marked decrease in anti-Israel activity. There was an assumption that the cancellation of events, meetings, and other programming and activities would stymie or even prevent altogether opportunities for pro-BDS votes in student government, disruptions of pro-Israel speakers, “Israel Apartheid Week” and other anti-Israel events on campus quads, the hosting of prominent anti-Israel speakers, and more.

However, we found that anti-Israel activists adapted well to the COVID-19 era. Cyber-bullying of Jewish and Zionist students has increased on social media platforms and other online formats. Pro-Israel student organizations have had to strictly monitor their lists of attendees for virtual events to avoid being “Zoom-bombed” or otherwise disrupted. Anti-Israel events have also shifted easily to online formats, enabling the hosting of speakers who may not otherwise have been able to appear in person due to cost or visa restrictions. In some cases, it has been more difficult to counter anti-Israel activity on online formats, as anti-Israel activists have been able to manipulate visuals and time frames to their advantage.

We anticipate that even once campuses reopen for in-person learning and activities, some features of remote learning and other campus activity will remain for reasons of cost, efficiency, and/or habit. This, in turn, will allow for continued harassment and targeting of Jewish and pro-Israel students through online formats and continued efforts by students, campus organizations, and faculty (as well as the national anti-Israel organizations that support them) to harness online formats for anti-Israel activism.

Anti-Israel Activism in “Progressive” Spaces: This guide has detailed extensively the ways in which anti-Israel activism—and its associated rhetoric—has become integrated into progressive campus spaces. Events, flyers, social media postings, and many other communications routinely conflate Israel and Zionism with racism and white supremacy; anti-Israel rhetoric has been incorporated into seemingly unrelated causes, such as climate change or immigration rights; and disavowing Zionism has often become the “price of admission” for Jewish students seeking to participate in progressive causes and coalitions. With the increased focus on racial justice and police accountability following the Black Lives Matter protests in the Summer of 2020, we have seen a significant uptick in targeted efforts, such as the “Deadly Exchange” campaign, to blame Israel for police brutality against Black Americans and other minorities.

We can expect more virulently anti-Israel activism in progressive campus spaces. Online events allow for a much higher number of attendees than would normally be possible for in-person events, enabling organizers and speakers to reach broader audiences and to potentially create more diverse coalitions. National anti-Israel organizations have tailored their programming and messaging to align with progressive concerns, couching their goals in the language of anti-racism and human rights—this “trickles down” to the student level and to interpersonal interactions. The widespread interest in and concern about racial issues, particularly on college campuses, all but guarantee that events on such topics will have high turnouts. Perhaps most significantly, the continued emphasis on intersectionality within progressive spaces will create opportunities for anti-Israel groups to further coalitions with student groups representing the concerns of people of color.

Far-right antisemitic incidents coinciding with anti-Israel activism: In recent years, instances of antisemitism associated with the far right, such as the dissemination of white supremacist and neo-Nazi materials on campus or antisemitic vandalism, has been on the increase. We often see that far-right incidents on campus coincide with activism commonly associated with the anti-Israel far left, such as pro-BDS campaigns, votes, resolutions, and referenda. In the months ahead, we anticipate an increase in such incidents, enabled by online formats and virtual spaces that allow for attendees and participants from a wide variety of backgrounds.

Continued efforts to promote the academic boycott of Israel on campus and in professional academic associations: We anticipate that vehemently anti-Israel faculty will continue to push the academic boycott and related BDS-linked motions on campuses and in their professional organizations. In recent years, many of the academic boycott resolutions that have been fielded, debated, and voted on have rested on the unsubstantiated claim that it is justified to boycott Israel’s academic institutions because of Israel’s alleged ongoing violations of academic freedom on Palestinian campuses in the West Bank. We expect that such false charges will continue to feature prominently in academic boycott motions in the near future.

Anti-Israel activism on college campuses is a function of the broader realities—and anxieties—of our time. It is fueled by misinformation and extreme rhetoric. It thrives on the desire for justice and the need to be part of the “community of the good.” It provides a sense of meaning and community at a time when many feel isolated, atomized, and uncertain. However, the consequences of such activism are manifold: increased division and hostility that negatively impact the campus climate; Jewish and Zionist students being harassed and excluded, and feeling unwelcome in their campus community; and assaults on academic freedom and exchange that threaten the core values of academia. University leaders must counter these trends and meet the challenge of creating and sustaining inclusive intellectual and social spaces on their campuses for all students.

CHAPTER 12.

THE IMPORTANCE OF ANTISEMITISM AWARENESS EDUCATION ON COLLEGE AND UNIVERSITY CAMPUSES

NAOMI GREENSPAN

Antisemitism is on the rise. In addition to high-profile incidents, such as the shootings at the Tree of Life Synagogue in Pittsburgh in October 2018 and the kosher grocery store in Jersey City in December 2019, there have been numerous other instances of antisemitism, including assaults, vandalism, and harassment. According to the Anti-Defamation League's annual Audit of Antisemitic Incidents, there were more than 2,000 such incidents in 2020, the third highest level of antisemitic incidents since tracking began in 1979 (the highest and second highest levels occurred in 2019 and 2017, respectively).¹

College campuses are not immune to this rise in antisemitism. The American Jewish Committee 2020 Survey of American Jews found that of respondents between the ages of 18 and 29, nearly half (43%) said that they or someone they knew had experienced antisemitism on a college campus in the last five years.² Reports of incidents on campus include the presence of posters praising Hitler,³ students being denied participation in student government because of their Jewish identity and connection to Israel,⁴ and speakers who have ties to antisemitic and extremist organizations and individuals being invited to deliver lectures in classrooms or addresses at official university events.⁵ There are also a countless number of antisemitic microaggressions suffered by Jewish students on a daily basis, including online.

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- 1 Anti-Defamation League, "Audit of Antisemitic Incidents 2020," at <https://www.adl.org/audit2020>
 - 2 Avi Mayer, "The State of Antisemitism in America in 2020," *American Jewish Committee*, October 26, 2020, at <https://www.ajc.org/news/AntisemitismReport2020/the-state-of-antisemitism-in-america-2020-insights-and-analysis>.
 - 3 Ewan Palmer, Ewan, "'Hitler Was Right' Neo-Nazi Posters Found Hanging at Arizona State University," *Newsweek*, September 1, 2020, at <https://www.newsweek.com/nazi-posters-hitler-arizona-state-university-1528876>.
 - 4 Aaron Bandler, "USC Student VP Resigns, Says Was Bullied for Being a Zionist," *Jewish Journal*, August 6, 2020, at <https://jewishjournal.com/featured/319981/usc-student-vp-resigns-says-she-was-bullied-for-being-a-zionist/>.
 - 5 Serena Bettis, "CSU Jewish community reacts to Diversity Symposium speaker," *Rocky Mountain Collegian*, October 21, 2020, at <https://collegian.com/2020/10/category-news-csu-jewish-community-reacts-to-diversity-symposium-keynote-speaker/>.

While many university leaders have spoken out against these antisemitic attacks of Judaism and Jewish students, all too often antisemitism is not taken seriously or is condemned in general terms with broad statements against all forms of identity-based bias and discrimination. With such a strong commitment to diversity, equity, and inclusion among higher education institutions, one might ask how it is possible that such antisemitism often goes unnoticed or inadequately addressed. One reason may be confusion over how to define and identify antisemitism when it occurs.

Jewish identity is often misunderstood. Judaism is frequently seen as a set of religious practices. The reality is that, for most Jewish people, Judaism and their Jewish identity is much more complex, with elements of ethnic, cultural, racial, religious, and national identities included within the Jewish experience.⁶ For most Jews, including students who identify as Jewish, Zionism is an integral component of Jewish identity and belief⁷—therefore, anti-Zionism is seen by many Jews on campus as an offensive and derogatory stance. For the vast majority of Jews, the historical bond of Jewish peoplehood, shared ancestry and ethnicity, and a deep connection to the Jewish homeland of Israel—to Zion—is central to an understanding of the Jewish faith.⁸ In order to recognize and address antisemitism, a basic understanding of how Jews perceive themselves and the multiplicity of ways in which Jewish identity can be attacked must be understood first.

An additional factor limiting the ability of campus communities to identify antisemitism is the tendency to view Jews as “white and privileged” and, therefore, not vulnerable to the scourge of antisemitism. While it is true that many American Jews self-identify as white and view themselves as beneficiaries of the realities of white privilege in the United States, there is also more to Jewish identity than this perceived whiteness. Indeed, Jews have not been perceived as “white” in the United States for much of its history, much less have they been perceived as such in other countries, where they have faced persecution and discrimination precisely on account of such othering. This inaccurate perception of Jews plays into traditional antisemitic stereotypes about Jewish power and control and has the unintended consequence of making antisemitism harder to recognize. It also has the unfortunate effect of marginalizing Jews of color, including by erasing the experiences of Jews from Arab lands who have settled in the United States, in other countries, and in Israel, where they comprise nearly a majority of the Jewish population.

One final variable that must be taken into consideration in understanding why antisemitism is often a tangential focus within diversity, equity, and inclusion spaces on college campuses is that many campus officials who choose to focus in this area come to the work with a particular professional orientation. They took their positions because of a commitment to righting the wrongs of racism, sexism, and homophobia. These are important issues to address, particularly in the United States and on college campuses, where historic and contemporary inequalities lead to continued inequities. At the same time, these challenges cannot be addressed to the exclusion of antisemitism. Diversity officials need to broaden their sense of the dimensions of the problem to include the Jewish people, not only for the sake of the campus Jewish community but also because in order to create an environment that is safe for anyone, it must be safe for everyone.

6 According to the American Jewish Committee’s 2019 survey of American Jewish Opinion, 75% of respondents said that they consider being Jewish more (59%) or equally (16%) a matter of ethnicity and culture than a matter of religion (<https://www.ajc.org/news/survey2019>).

7 According to the Pew Research Center on Religion and Public Life 2020 survey on the American Jewish community, 82% of U.S. Jews overall and 71% of U.S. Jews between the ages of 18 and 29 say caring about Israel is an important or essential part of what being Jewish means to them (<https://www.pewforum.org/2021/05/11/jewish-americans-in-2020/>)

8 Alyza D. Lewin. (2020). Zionism—The integral component of Jewish identity that Jews are historically pressured to shed. *Israel Affairs*, 26:3, 330–347. DOI: 10.1080/13537121.2020.1754577.

With these factors in play, antisemitism and Jewish identity have often been left out of the diversity conversation, in which the focus tends to be on race and gender. They highlight the need for greater education about Judaism, the diversity of the Jewish experience, the complexity of Jewish identity, and the historical and contemporary manifestations of antisemitism. It is only through greater awareness and understanding that antisemitism can be effectively addressed and a truly inclusive campus environment can be created. New initiatives recently launched by AEN and Hillel International aim to provide this educational programming.⁹

In a climate of increased polarization, there is a tendency for people to feel the need to “pick a side.” On college campuses in particular, where students are often forming their own political and social identities, there is an even greater propensity for individuals to become strident in their approach. The paradox of antisemitism is that it manifests across the political spectrum and, as such, requires greater nuance and understanding in order to address it.¹⁰

The fight against antisemitism should not be politicized. We must all be on the same side on the issue of standing up to hate, the side of equity and inclusion. If a campus climate is not safe for one group, it is not safe for any group. Our perspective at AEN is that we must work together to create a campus environment that is safe for all students—antisemitism awareness education is one important step in accomplishing this larger goal.

9 “New initiatives join forces to battle anti-Semitism on college campuses,” *Jewish New Syndicate*, October 29, 2020, at <https://www.jns.org/new-initiatives-join-forces-to-battle-anti-semitism-on-college-campuses/>.

10 It is also important to acknowledge that antisemitism can be expressed by individuals and groups with which one otherwise shares common concerns and interests.

CHAPTER 13.

ANTISEMITISM AND ISRAEL

DELEGITIMIZATION ON THE U.S. CAMPUS¹

MIRIAM F. ELMAN

Most campuses in the United States are not awash in antisemitism, nor are they hotbeds of antisemitic forms of anti-Zionism. As the Anti-Defamation League (ADL) notes in a 2019 report (ADL, 2019), “hysteria around anti-Israel activism on campus is unwarranted. Jewish students are not suffering from persecution on a daily basis, and physical assaults are extremely rare.” Boycott, Divestment, and Sanctions (BDS) activism, which contributes to a campus climate where tropes and canards about Jewish power, money, and undue influence can more easily take root, also tends to be geographically concentrated on the East and West Coasts and in the Midwest in the Chicago, Illinois hub—leaving many American campuses untouched by anti-Jewish hostility. Still, on hundreds of campuses, among them some of the country’s most prestigious and those with high Jewish-student enrollments, a new set of realities has emerged for Jewish students, the majority of whom self-define as Zionist.

The far right is increasingly coming on to these campuses from the outside. This typically takes the form of swastikas etched into bathroom stalls or on the sides of dormitory halls. Antisemitic flyers have also been plastered across campuses accusing Jews of driving globalism, pushing multiculturalism and immigration, secretly infiltrating government, and destroying the “White Man’s” America.² University and college officials typically address this type of antisemitism well, with swift and unequivocal denunciations. However, campus administrators do not typically handle far-left antisemitism nearly as well. On the whole, they have been unresponsive, often dismissing Israel-related bigotry and harassment as political speech that does not warrant any university intervention (Rossman-Benjamin, 2018).

Today, far-left antisemitism on U.S. campuses manifests as self-defining antiracists, often from minority communities themselves, expressing a view of Israel that traffics in anti-Jewish conspiracies. Like antisemitism

1 This essay originally appeared in *Contemporary Antisemitism in the United States* (Institute for National Security Studies, Tel Aviv University, January 2021) at <https://www.inss.org.il/publication/antisemitism-and-israel-delegitimization-on-the-us-campus/>. It has been lightly edited to conform to the style of this *Guide and Resource Book*.

2 Antisemitic vandalism frequently coincides with sustained student-led BDS activism and anti-Israel campaigning. It has been increasingly common to find swastikas or neo-Nazi fliers appearing on campuses in the wake of BDS resolutions and referendums, for example, as recently occurred at Columbia University (Bandler, 2020).

on the far right, it also views the Jewish experience in terms of power and privilege. In this campus climate, overlapping categories of identity based on perceived shared experiences of oppression and discrimination have created a toxic atmosphere where antisemitism can thrive behind a veil of social justice and human rights. It is this brand of antisemitism that has already made considerable headway, especially among young American voters and those who self-identify on the left. It has also increasingly become normalized on U.S. campuses, by student groups and faculty that promote and endorse it, and by campus leaders who do not speak out nearly enough against it.³

THE CHALLENGE OF CAMPUS ANTISEMITISM

Twenty years after the 2001 conference of nongovernmental organizations in Durban, South Africa called for Israel's "complete and total isolation" from the global community, campaigns to boycott, divest from, and sanction Israel continue to feature regularly on campuses across the United States—even though most such resolutions and referendums fail to pass and no universities have divested from Israel. Israel continues to be delegitimized and cast as a pariah state. But what is currently taking place on many campuses is something more insidious, as Jewish students are being demoralized as imperialists, racists, and even Nazis and white supremacists (Flayton, 2020; Zieve, 2017). On some campuses, their fitness to serve in leadership positions has been questioned on account of their perceived Zionist beliefs and identification with Israel (Ritch, 2020).

On college campuses, students have increasingly reported that they are afraid to express their Jewish identity, including their support for Israel, lest they be excluded from campus life and the causes that they care deeply about. Hillel International reported that antisemitic incidents reached an all-time high during the 2019–2020 academic year at the 550 U.S. colleges and universities that it serves (Anderson, 2020) and, despite the unprecedented impact that the coronavirus pandemic has had on higher education, antisemitism has persisted. Jews and Israel have been scapegoated and held responsible for the COVID-19 virus (Mandels, 2020). On some campuses, classes and events have been "Zoombombed" with barrages of antisemitic images and messaging; on others, Jewish students have been targeted and harassed on social media platforms (Krupnik, 2020).⁴

There is also a more pernicious form of BDS campus activism that ranges today from attempts to exclude Jewish-Zionist students from participating in progressive coalitions to obnoxious campus campaigns that discredit American-Jewish organizations, including the ADL, Birthright, and Hillel, and seek to prevent or limit their activity on campus (Fish, 2019; Lewin, 2019; Lipstadt, 2019; Solomon, 2019). In the wake of the killing of George Floyd in 2020, strengthened allyships between supporters of BDS and the movement for Black Lives Matter are also contributing to troubling new campus efforts that play on anti-Jewish conspiracy theories. For example, events and campaigns centered on the false accusation that mainstay American-Jewish organizations are funding Israel to train America's police forces to behave in inhumane ways are surfacing with increasing frequency (Richman, 2020b; Elman, 2019).

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- 3 It is, of course, possible to identify a more responsible criticism of Israel and Zionism, which would eschew any extreme hostility or fear of the very concept of a Jewish right to self-determination. University administrators and faculty can work to promote such a discourse for pro-Palestinian student activism on campus by showcasing pro-peace coexistence efforts and regional economic and cultural integration and innovation. Investing in educational exchange programs that bring more Israeli students to U.S. campuses is also necessary. After all, it is much more difficult to hate or to be afraid of people when you interact with them in classes, in the cafeteria, in student clubs, and in sports.
 - 4 Virulent anti-Israel activism on campus operates largely through in-person theatrics—event disruptions, rallies, teach-ins, and the ubiquitous "Apartheid Wall" displays on campuses. The shift to remote learning as a result of COVID-19 has resulted in the cancellation of many of these activities.

Antisemitism is also bubbling up in the classroom, where it is masquerading as a legitimate discourse on Israel and the Middle East. Vehemently anti-Israel professors continue to publish virulently anti-Israel materials in leading peer-reviewed outlets (Mikics, 2018; Nelson, 2019b) and academic departments are increasingly sponsoring events that demonize Israel, condone and glorify violence against Israeli civilians, or call to eliminate the Jewish state (Kerstein, 2020; Richman, 2020a).

Within professional associations and on their campuses, faculty are brazenly pushing the academic boycott of Israel and are willing to punish their own students by refusing to recommend them in pursuit of educational opportunities offered through study abroad programs in Israel (Stanley-Becker, 2018; Falk et al., 2018). In certain disciplines, faculty—especially junior faculty unprotected by tenure—are hiding their pro-Israel viewpoints in order to succeed professionally. Cases of Jewish faculty members being shunned, intimidated, and harassed because they are perceived to be sympathetic to Israel are starting to accumulate (Landes, 2020; Murray, 2020; Nelson, 2019a; Pessin & Ben-Atar, 2018).⁵

COUNTERING CAMPUS ANTISEMITISM: RECOMMENDATIONS AND BEST PRACTICES

More speech rather than censorship. In combating antisemitism in U.S. academic institutions, the major assumption is that more speech, rather than enforced silence, is the answer (Abrams & Paresky, 2020). This is a winning strategy, as most academics and leaders in higher education believe strongly that vigorous debate and free expression of ideas are abiding fundamental principles of the academy. While defamation, vandalism, shouting down speakers, and engaging in violence or true threats to physical safety are not protected by the First Amendment, most forms of intolerant and offensive speech targeting Jewish identity and belief fall into the category of protected speech (Paresky & Harris, 2019). Consequently, the guideline most frequently adopted by organizations working to counter antisemitism on campus is that anti-Jewish expression needs to be better explained—the remedy to be applied is more speech rather than censorship.⁶

Faculties must engage in frank discussions about academic freedom, open inquiry, and free expression in the context of BDS and the academic boycott of Israel. Faculty-comprised campus bodies, such as the Academic Senate, need to engage in efforts to combat classroom indoctrination (faculty using their academic positions to promote personal anti-Israel agendas) as well as the use of university channels and resources—official university websites and listservs, and academic department speaker series—for the dissemination of virulent anti-Israel and antisemitic propaganda. It should be self-evident that professors should not be abusing

5 The underlying, if unstated, aim in most of these instances is to isolate Jewish and Zionist students and faculty. Those who do speak out against antisemitic forms of anti-Zionism on their campuses frequently are accused of acting in bad faith to silence criticism of Israel.

6 Today, some 100 not-for-profit organizations operating locally, regionally, and at the national level are working to combat antisemitism and Israel delegitimization on U.S. campuses. The majority of these groups are student-facing, providing information and tools, training, and support to Jewish and Zionist students who are, in turn, working to counter vehement anti-Israel activism on their campuses. Many of these organizations operate as watchdog groups. They are dedicated to exposing campus antisemitism, reporting on it to the media, and urging action by the university. A number of these organizations offer legal advice and guidance to students; several (e.g., Lawfare, Brandeis Center for Human Rights Under Law, Zachor Legal, StandWithUs) have recently filed lawsuits or complaints on behalf of students with the Department of Education (e.g., at Columbia University, the University of Illinois–Urbana Champaign, New York University, University of California, Los Angeles, and San Francisco State University). Very few of these groups, however, focus on informing and mobilizing concerned faculty. Notable exceptions are the Academic Engagement Network (AEN) and Scholars for Peace in the Middle East (SPME).

their authority in the service of political or ideological indoctrination, nor should they belittle, intimidate, or silence students who express views with which they disagree (Bandler, 2019).

Better vetting of the antisemitic pseudo-scholarship now being published by some academic university presses is also needed. Certain university presses and academic journals that publish material on Israel/Palestine need to be held to a higher standard, as they have been shown to have an unprofessional peer-review process (Mikics, 2019; Nelson, 2019b). There is also a need for a better vetting of courses.⁷ Faculty have the academic freedom to present the BDS narrative, to teach it, and to share their pro-BDS views in the classroom, should they wish to do so. At the same time, BDS-advocating faculty also have an obligation, as do all faculty, to foster an atmosphere of civility, respect, and tolerance. Department and faculty curriculum committees could certainly recommend correctives to one-sided, politically motivated courses—and they should. Administrators, too, are not bereft of options. After all, academic freedom does not entitle a professor to teach a particular course. As Cary Nelson (2019b) writes, “If a department decides that you are a ruthless ideologue about Israel, they can assign you to teach something else.”⁸

Antisemitism-awareness training programs should be implemented as part of anti-bias programming. Antisemitism-awareness training should be mandatory for student-government leaders and heads of student organizations; materials and workshops also should be offered for midlevel staffers and officials in Offices of Student Affairs and in the Equity, Diversity and Inclusion (EDI) spaces on campus. These administrators often are not fully aware of and do not understand antisemitism, and they may not see that the needs or concerns of Jewish students are directly within their purview.

The Trump Administration’s Executive Order on Combating Antisemitism puts universities on notice that they cannot dismiss discriminatory conduct against, or harassment of, Jewish students by simply labeling it criticism of Israel.⁹ The challenges facing Jewish students on campus, however, are best addressed not by lawsuits or by federalizing the problem but rather by offering support, resources, and guidance to campus leaders. They need help in better identifying and responding to situations in which a critique of Israel or Zionism goes beyond political disagreement and becomes, in fact, a dangerous form of antisemitism.¹⁰

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- 7 One recent study of 50 syllabi at 40 U.S. public and private colleges and universities over a 10-year period found that faculty advocating for the academic boycott of Israel had an average of 78% of their course readings authored by fellow BDS supporters. By contrast, faculty opposed to the academic boycott had only an average of 17% of their assigned course readings authored by BDS supporters. See AMCHA Initiative, 2020.
 - 8 Administrators also need to ensure that they are providing balance across the curriculum. New faculty can be hired to teach different courses with perspectives on Israel and the Middle East that are different to those espoused by BDS-supporting faculty.
 - 9 This Executive Order (EO), issued on December 11, 2019, requires that Title VI of the Civil Rights Act be enforced to protect Jewish students from discrimination based on race, color, or national origin in programs and activities that receive federal financial assistance. It also requires that federal agencies consider the International Holocaust Remembrance Alliance (IHRA) definition of antisemitism, which identifies examples of antisemitic forms of anti-Israel expression, when enforcing Title VI. Thus, the EO introduces a new means for determining whether unlawful conduct might have been motivated by antisemitism. That said, antisemitic hate speech on its own would not trigger Title VI liability absent the accompanying discriminatory action. While, like any legislation, the EO could be abused to silence protected speech, including anti-Zionism and antisemitic forms of anti-Israel expression, the intent of the order is to ensure a non-hostile learning environment for Jewish students, including protection from persistent harassment and from discriminatory actions taken against them on account of their support for Israel or their Jewish beliefs and identities.
 - 10 For more on several new educational initiatives launched by Hillel International and the educational nonprofit Academic Engagement Network to address the campus climate for Jewish students by empowering university leadership to better understand contemporary antisemitism and to directly address it, see Jewish News Syndicate, 2020; Mirsky, 2020.

University leaders need to speak out against antisemitism just as they would against racism and other bigotries on campus. It is important that equal treatment for all be a shared goal, with no double standards. Just as they would condemn other forms of hate speech, campus leaders must respond promptly to instances of antisemitism, including antisemitic forms of anti-Israel expression, by forcefully and unequivocally condemning it as inconsistent with the academy's values of civility, respect, tolerance, and inclusivity. As Pamela Paresky and Samantha Harris (2019) rightly note, "when a university consistently denounces protected racist or sexist speech while remaining silent in response to protected anti-Jewish speech, what message does the university send?"

Equally important, Jewish and Zionist students must be able to define and say who they are and be able to express their views and beliefs without being silenced or subjected to smear campaigns (Johnson, 2019; Yudof et al., 2019). Jewish students should not be mistreated or denied equal opportunities to serve their campus solely by virtue of their Zionist identity or their relationship to Israel (Krylov & Warshel, 2020). University leaders can use painful incidents of intolerance and identity-based prejudice as teachable moments to educate the campus community about the nature of contemporary antisemitism, including the "new antisemitism" characterized by an irrational fear and loathing of Israel and Zionism. Here, the IHRA definition of antisemitism can be useful as a resource tool and frame of reference (Harrison, 2019). An important goal is for existing mission statements and campus policies to explicitly incorporate a condemnation of antisemitism.¹¹

University leaders need to understand that it is possible to forcefully and unequivocally condemn antisemitism without running roughshod over the principles of academic freedom and campus free speech. Administrators can distance their campuses from events and campaigns that involve bigoted antisemitic rhetoric by denouncing rather than blocking or canceling them (*Algemeiner* Staff, 2019). While universities should adhere to the principles of academic freedom and public institutions moreover are bound by the First Amendment to the Constitution not to take steps to inhibit campus free expression, administrators need not apply a content-neutral standard to their own speech.

Campus administrators can signal their commitment to fostering a diverse and inclusive campus when they exercise their own right to free expression by condemning hate speech that is inimical to the academy's mission. Administrators can and should challenge the BDS platform and its policy positions and more are now doing so. In the past several years, chancellors and presidents at Pitzer, Vassar, Cornell, University of Minnesota, University of Illinois–Urbana Champaign, University of Massachusetts–Amherst, Columbia University, and more have spoken out publicly in opposition to BDS—not only because it violates the central tenets of academic freedom and campus free speech but also because it often involves expressions of hatred that leave Jewish and Zionist students feeling demoralized and isolated.¹²

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- 11 Students or student groups that engage in antisemitic hate speech should be offered mentoring and guidance. Those engaging in antisemitic conduct should be disciplined for violating university rules and policies. In some cases, the rights and privileges of a registered student group should be suspended or revoked if it engages in hateful and hurtful rhetoric that creates a climate of fear and disrespect. Structures and protocols for reporting bias incidents against Jewish students need to be created or may need to be better implemented to properly track bullying and harassment.
- 12 In recommending non-censorial strategies to combat hateful speech, former ACLU head Nadine Strossen (2018: 165) notes that those "committed to equality and individual dignity have a moral responsibility to condemn 'hate speech' and to express support for people whom it targets."

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APPENDIX I:

MODEL RESPONSES TO CAMPUS ANTISEMITISM AND THE ACADEMIC BOYCOTT OF ISRAEL

APPENDIX 1A.

SELECT STATEMENTS ON BDS AND ANTISEMITISM BY UNIVERSITY LEADERS

The following section mainly covers statements from 2018 to the present. Thus, it does not include the over 250 statements released by university leaders following the decision by the American Studies Association to adopt an academic boycott of Israel in 2013. A number of those statements were included in our prior Guide, along with others issued from 2015 to 2017.

President Lynn Mahoney, San Francisco State University (statement following the passage of a BDS resolution in student government), *The Jewish News of Northern California*, November 24, 2020
<https://www.jweekly.com/wp-content/uploads/2020/11/Untitled-document.pdf>

Excerpt:

San Francisco State University has had a decades-long challenge creating safe space for discussions about the Israeli-Palestinian conflict. That these challenges continue to create strife on campus is not for lack of trying to address them. Multiple committees and task forces have worked to address them, and our faculty have also worked to advance a better understanding of the complexities in the region. The University has tried to chart a path embracing intergroup education and collaboration. While the University will never solve this or other global, geopolitical conflicts, we are responsible for creating rich educational experiences for our students that will expand our understanding and deepen our capacity to discuss challenging matters.

In that context, I wish to explain why I cannot support the Resolution in Support of Divestment from Human Rights Violations, and why I cannot support its implementation. I say this with great respect for the commitment to human rights you expressed and for your support for Palestinian students.

As I said when we met, it is heartbreaking to see so many students feeling marginalized and unsafe. We can and must do better. We must model complex conversations and develop nuanced understandings of the many issues confronting us. I am deeply uncomfortable with the binary positions that drove the conversation around the resolution. I also fundamentally disagree with the premise that a single geopolitical issue can serve as a proxy against which to measure an institution's commitment to human rights. I regret that the resolution flattens an incredibly complex historical and current geopolitical issue into misleading binaries. Some would have us believe that you are either Pro-Palestinian or Pro-Israel; that you are either an antisemite if you oppose Zionism or a racist if you support it. You can only be for or against. These binaries do not do this issue justice nor do they do justice to us as a University. Binary thinking leaves all of us feeling unsafe and fails to address the complex nuances enmeshed in these fraught issues. To present "sides" to this discussion, as if one who is pro-Palestinian cannot also believe in Israel's right to exist or that one who identifies as Zionist cannot also believe in the right of Palestinians to a future state and self-determination, perpetuates the ill-informed concept that these are mutually exclusive positions and identities.

Office of the Chancellor, University of Illinois at Urbana–Champaign, Joint Statement on Anti-Semitism, November 16, 2020

<https://blogs.illinois.edu/view/6231/1530347443>

Students who choose the University of Illinois at Urbana-Champaign for their college education make that decision with an expectation that they will find the freedom and security to grow, to explore and to express their whole and best selves.

But, sadly, that is not the experience of all members of the student community. Anti-Semitic acts and expressions are all too common in our country and in our world, and examples of that intolerance have occurred at this university as well. This is unacceptable. While the university has taken measures in the past to address this problem, the university must do more.

Over the past several months, and especially over the past few days, the University of Illinois at Urbana-Champaign, leaders in the Jewish community and counsel for the Jewish students have engaged in meaningful and productive conversations. While we may not agree on all aspects of these complex and critical issues, we are united in a single view that our shared and common goal must be to support a safe and welcoming environment for Jewish and pro-Israel students at the University of Illinois that is free of discrimination and harassment.

We acknowledge and affirm our shared belief in the rights of all members of the university community to express their viewpoints, identity and lived experiences. Every student should have the opportunity to have a transformative and positive educational experience from the day they arrive to the day they earn their degree. But acts and expressions of anti-Semitism—in any form—actively undermine the educational process and are in direct opposition to our core values.

For many Jewish students, Zionism is an integral part of their identity and their ethnic and ancestral heritage. These students have the right to openly express identification with Israel. The university will safeguard the abilities of these students, as well as all students, to participate in university-sponsored activities free from discrimination and harassment.

We deplore anti-Semitic incidents on campus, including those that demonize or delegitimize Jewish and pro-Israel students or compare them to Nazis. This subjects them to double standards that are not applied to others. All Jewish students, including those who identify with Israel or Jewish campus organizations, should be able to participate in campus activities aimed at fighting racism and achieving social justice.

All Jewish students should be able to proudly display religious emblems without fear of being targeted by their fellow students. All Jewish students should feel confident that if they encounter a swastika on campus, the university stands with them in rejecting symbols of hate. Anti-Semitism, anti-Semitic forms of anti-Zionism and other forms of discrimination have no place at this university. We will stand united against all forms of anti-Semitism.

We agree that our mutual priority must be to continue working together to more rapidly advance clear, concrete and actionable steps to support Jewish students, staff and faculty so their lived experiences match the expectations that brought them to the university in the first place. As a result:

- The university will create an Advisory Council on Jewish and Campus Life that will consist of undergraduate and graduate students, staff, faculty and alumni, as well as representatives from the Jewish community committed to the principles set forth in this statement. This advisory group will assist the chancellor and university leadership to identify opportunities to enhance the campus environment for all students, faculty and staff, and to advance its commitment to an inclusive

community where all feel welcome. The university expects to have the Advisory Council on Jewish and Campus Life in place before the beginning of the Spring 2021 semester.

- As part of its broader and expanding efforts to curb hate and intolerance, and in consultation with the Advisory Council on Jewish and Campus Life, the university will institute focused and regularly recurring educational programming regarding anti-Semitism.
- The university will review, evaluate and, when necessary, revise procedures and practices so they are appropriately aligned with shared values opposing discrimination and harassment on campus, including anti-Semitic actions.

Finally, we emphasize our shared commitment to the values of free speech and academic freedom. Freedom of speech is of paramount importance on a college campus. Also paramount is the university's commitment to never tolerate harassment or discrimination, including against its Jewish students, and to enforce its nondiscrimination policy to the fullest extent. In this as well as all areas, the university is committed to complying with applicable federal, state and local antidiscrimination laws as a state and federally funded institution.

Though these steps will further our shared goals, they alone will not effectively dispel the environment that many Jewish students have felt to be unwelcoming. Thus, our collective and collaborative efforts will not end with these actions. The university, the undersigned organizations and Jewish students will meet before the end of the semester to discuss additional steps. We will work together to demonstrate that the University of Illinois is a place where people of all faiths, races, gender identities, ethnicities, national origins and viewpoints can live, learn and thrive.

President Lee Bollinger, Columbia University, President Bollinger Comments on College Student Vote on Israel, September 29, 2020

<https://president.columbia.edu/news/president-bollinger-comments-college-student-vote-israel>

The Columbia College student body has voted to recommend that the University should divest from companies profiting from or otherwise supporting Israeli policy toward the Palestinian people.

At Columbia, questions about possible divestment of endowment funds are not decided by referendum but through a process involving the University's Advisory Committee on Socially Responsible Investing (ACSRI), which advises the President of the University and Columbia's Trustees on policies related to ethical and social issues, and which includes students, faculty, staff, and alumni.

I made clear earlier this year that I do not support the referendum. To do so would contradict a long-held understanding that the University should not change its investment policies on the basis of particular views about a complex policy issue, especially when there is no consensus across the University community about that issue. Furthermore, in my view, as I have expressed many times over the years, it is unfair and inaccurate to single out this specific dispute for this purpose when there are so many other, comparably deeply entrenched conflicts around the world. And, finally, I have also raised concerns about how this debate over BDS has adversely affected the campus climate for many undergraduate students in our community.

Of course, I remain an unflinching proponent of robust debate over contested issues such as the conflict between Israelis and Palestinians. Such discussions and debates are part of the essential purpose of the University, and we should all welcome the critical thinking that so often emerges and leads to improvements in our world. But altering our endowment in order to advance the interests of one side is not among the paths we will take.

President John Thrasher, Florida State University, Statement on Antisemitism and Religious Discrimination, August 12, 2020

<https://news.fsu.edu/news/university-news/2020/08/12/a-message-from-president-john-thrasher-an-update-on-antisemitism-and-religious-discrimination/>

Excerpt:

As a minority group, the Jewish people have faced bias and discrimination and have been marginalized for centuries. It is one of the oldest forms of bigotry and is as intolerable as all forms of hate. The United States, the State of Florida, and Florida State University recognize the International Holocaust Remembrance Alliance (IHRA) working definition of Antisemitism and its contemporary examples. I encourage everyone to educate themselves on the IHRA definition and examples of Antisemitism, as I have done myself.

In June, I publicly pledged to our Jewish students, families, faculty, staff, alumni and friends that FSU will continue to embrace them and stand behind our stated vision of fully valuing and respecting every member of our community. In support of that promise, there have since been a number of significant developments on campus to combat Antisemitism.

In July, the FSU Student Body Executive Cabinet adopted the IHRA definition of Antisemitism, and the Student Senate passed Resolution 59, which adopts the IHRA definition of Antisemitism, in line with the Florida Statutes 1000.05(7).

The students are to be commended, but we know it is only a first step in addressing needed changes in campus culture.

Therefore, FSU administrators, led by Vice President for Student Affairs Amy Hecht, have been working closely throughout the summer with Jewish student leaders, Hillel at FSU leadership, Jewish alumni and local Jewish organizations.

Together, we have created a task force to review Jewish student life on campus and develop recommendations for Vice President Hecht to consider by Sept. 7, 2020. We will conduct a student campus survey on Jewish student life at FSU and Antisemitism. The task force will use a questionnaire developed by Hillel at FSU as a basis for initial discussions.

The Division of Student Affairs also will institute annual training for its staff surrounding Antisemitism, religious discrimination and ways in which to foster a more inclusive campus for our Jewish students and employees.

President Carol Folt, University of Southern California, Email sent out to the campus (in response to Rose Ritch's resignation from student government), August 6, 2020

<http://view.comms.usc.edu/?qs=c28c9291e514ba1414161ec37436b7f3730d442a108bc44bf5d351f-350ccdecde4360e99c3a3e2f98ed4c2587fd0461e0b6041d73fb50b46762005aecd35315afdca2a11-67165f842810886ddda197a>

Excerpt:

As president of USC, I believe it is critically important to state explicitly and unequivocally that anti-Semitism in all of its forms is a profound betrayal of our principles and has no place at the university. We must condemn any bias or prejudice that is based on a person's race, religion, sexual orientation, or other personal characteristic. What happened to Rose Ritch is unacceptable, and we must all take up her challenge to do better.

Despite the significant progress we have made in cultivating and supporting a vibrant Jewish community on campus, we still wrestle with a history of anti-Semitism at USC. Over the last several years, incidents of anti-Semitism in American higher education have dramatically increased, and anti-Semitic attacks remain the most common religiously motivated hate crime in the United States. As a result, this has been an extremely painful period for our Jewish community.

It is more important now than ever for our university to serve as a global beacon of belonging. I'm grateful today to announce a new university-wide initiative launched by the USC Shoah Foundation, *Stronger than Hate*. This program serves as a call to counter hate with tangible action. It represents the work of many of our university leaders – including students, staff, and faculty – who have come together to support and amplify our collective struggle against hate. Through meaningful exhibitions, programs, and workshops, this initiative is designed to help foster a campus culture of connection and compassion that empowers us to listen, learn, heal, and dream together. We hope that as we listen to each other, we can move beyond stereotyped beliefs that lead to implicit and explicit biases, and instead foster a respectful and supportive campus culture. We invite everyone to become *Stronger than Hate* and to sign up for this important opportunity here.

Provost M. Brian Blake, George Washington University, A Statement about Interim Dean, May 18, 2020 (regarding Ilana Feldman's support for BDS while acting in her capacity as an interim dean)

<https://mediarelations.gwu.edu/statement-about-interim-dean>

We have listened and heard the concerns from some members of our community about the appointment of Dr. Ilana Feldman as interim Dean of the Elliott School of International Affairs and personal views she has expressed about the Boycott, Divestment, Sanctions (BDS) movement.

The university's policy on the BDS movement is very clear - GW does not support divestment or other actions called for by BDS. While the University supports academic freedom for all, members of the administration – including those in an acting or interim capacity – are required to comply with all University policies or actions, including those on BDS, and foster an atmosphere that allows all voices to be equally heard. As vice dean, and now as interim dean, Dr. Feldman has and will adhere to all of our policies and specifically committed to adhering to GWU's policy regarding freedom of expression.

The University also prioritizes the safety and security of everyone in our community. We do not tolerate discrimination in any form, including anti-Semitism and racism. We believe in an inclusive and robust community that respects all points of view. These values are intrinsic to the GW community.

We have begun our search for Dean Brigety's successor and will keep the community posted.

President Anthony Monaco and Provost Nadine Aubry (along with several deans), Tufts University, Statement on Student Organization Award, April 24, 2020

<https://president.tufts.edu/news/2020/04/24/statement-on-student-organization-award/>

We strongly disapprove of this award in light of SJP's concerning policy positions, including its association with the BDS movement, elements of which we view as anti-Semitic. We will be reviewing the awards process, which currently does not involve academic deans or senior university leadership and this year did not include students, in order to ensure proper oversight and review going forward. We as senior leaders take responsibility for this outcome, which should not have happened, and recognize that the award has caused a great deal of pain and concern for Jewish members of our community and others who share concerns about SJP's policy positions, particularly in light of rising anti-Semitism in the U.S. and around the world.

President Paul Hennigan, Point Park University, on antisemitism and BDS, *Jewish Chronicle*, April 8, 2020

<https://jewishchronicle.timesofisrael.com/anti-semitism-in-all-forms-including-bds-has-no-place-at-point-park/>

Excerpt:

I have listened to several conversations over the last few weeks that have highlighted concerns from the Jewish community in Pittsburgh regarding Point Park University, anti-Semitism and the BDS movement.

As the president of Point Park University, I want to assure the Jewish community that at every level of the university and across the university campus it is understood that any form of discrimination or hatred is not tolerated. All forms of anti-Semitism, which includes support for the BDS movement, generally defined as Palestinian-led campaign promoting various forms of boycott against Israel, has no place at Point Park University.

President Seth Bodnar, University of Montana, (message to the University of Montana community regarding an antisemitic email sent out to the student body), January 2020

<https://newstalkkgvo.com/um-president-responds-to-hateful-email-on-mlk-jr-day/>

As you know, we live in a time of significant polarization in our society. While a diverse range of ideas and political perspectives is healthy for any community, when hatred and bigotry are allowed to infect our discourse, they create easy pathways into discrimination, segregation and division. Our university has been, and must always be, a place that encourages the thoughtful, informed, respectful exchange of ideas, and we resoundingly reject hatred and bigotry in all forms. This week we are proud to celebrate the life of Dr. Martin Luther King, Jr., a man who dedicated his life to helping us all rise above our differences and work toward greater equity for all.

Late last night, a group of UM faculty and staff were targeted by a hateful email that expressed ideas that are against everything Martin Luther King, Jr. stood for and that are counter to our shared UM belief in the dignity of every person. The email was an affront to our values and what we as a community believe and seek to uphold. To all who received the email, we are saddened and diminished by this act of hatred, and we support you. We are investigating its origin and will take appropriate action.

Sadly, this is not the first time an email like this has been received on our campus and it will not be the last. We will continue to receive them and each time, we will respond appropriately and in a timely manner. Be assured we will act swiftly and surely on behalf of our students, faculty and staff.

We believe in the freedom an education brings, but this freedom is only possible when we speak out against hate and continue the necessary work to be inclusive of all. We continue that work today on myriad fronts. The work of many on campus, including student groups, points toward a UM family that seeks to build a welcoming and inclusive campus for all. This is ongoing work that is, as the hateful email highlights, still necessary.

As we acknowledge that UM sits on aboriginal lands and as we celebrate MLK Day as a “day on,” let us remember that we still have work to do to build a more inclusive and equitable society. The message sent last night is but one example of how hatred, allowed to fester, can undo the good work of many. Let this not be the case here. Instead, let this be an opportunity for us all to come together — to unite, not divide.

Statement of Vassar College President Elizabeth H. Bradley, November 14, 2019

<https://president.vassar.edu/point-of-view/191115-statement-of-vassar-college-president.html>

For the last two years, our campus has been focused on engaged pluralism and practices that allow all voices to be heard. This is not easy, and while we have had triumphs, we have also had setbacks along the way. Promoting a sense of belonging for all students, faculty, administrators and staff and faculty on this campus can be challenging. Today, we fell short of these expectations.

A student group brought a speaker to campus, who gave a lecture on “The Indigenous Jews of the Middle East: Forgotten Refugees.” A group of students disrupted the speaker by chanting outside the lecture hall for some time. People who were in the lecture expressed that the chanting was intimidating and hard to listen to. The words have been associated by some people with anti-Semitism.

We have worked with student groups to promote peaceful dissent and assembly, and disrupting an invited speaker is antithetical to being a part of a learning community. We have protocols that allow for peaceful protest. At the core of these protocols is our unwavering belief that we cannot have a free exchange of ideas if we do not allow diverse perspectives to be heard. Students today knowingly violated those protocols, which is unacceptable. We will follow our internal processes to address the situation.

Let us work toward a better approach to discussion and engagement. Vassar aspires to a culture where people feel they belong, where diverse views are welcomed, and where respect for persons is paramount.

Today, we let ourselves down in the pursuit of these values. Despite this, I believe in our ability to learn from this event. Given the strong voices on this campus, and the commitment of faculty, administrators, staff and students to education, I remain confident that multiple ideas, even opposing ideas, will continue to flourish.

Statement of University of Massachusetts Amherst Chancellor Kumble Subbaswamy, October 21, 2019

<https://www.umass.edu/newsoffice/article/statement-university-massachusetts-amherst>

An event scheduled for Nov. 12 on the UMass Amherst campus focusing on the anti-Israel “Boycott, Divest, Sanction” movement (BDS) is being presented by a private foundation – not by the university. This private foundation has, as many non-UMass organizations regularly do, rented space on campus to host the upcoming event, which is being billed as a panel discussion on “The Attack on BDS and American Democracy.” Despite our concerns regarding this particular gathering, based on its title and past statements by its panelists, as a public institution UMass is bound by the First Amendment to the Constitution to apply a content-neutral standard when making facilities available to outside organizations. For this reason, and in adherence to the principles of academic freedom, the university will take no steps to inhibit this event.

However, while UMass Amherst is firmly committed to the principles of free speech and academic freedom, the University remains firmly opposed to BDS and to academic boycotts of any kind. Academic boycotts are antithetical to academic freedom and it is ironic that individuals, who rely upon that very freedom to make their case, should advocate for a movement, in BDS, that seeks to suppress it.

It is troubling that such a one-dimensional, polarizing event should take place on our campus. A panel discussion where only one perspective is shared does little to increase the understanding of such a complex topic like the Israeli-Palestinian conflict. Furthermore, because the BDS position in general fails to acknowledge the humanity on the Israeli side of the conflict and is considered by many as anti-Semitic, the upcoming event could very well alienate many of our Jewish students and other members of our campus community.

Clearly, the divisions among Palestinians and Israelis represent one of the intractable problems of our times, and we acknowledge the suffering that exists on all sides. But if we are going to truly build a community of dignity and respect, we must step outside our own echo-chambers and encourage the free exchange of ideas. And while I wholeheartedly support freedom of speech for all, I also maintain that, as chancellor, I have a duty to be a voice for our campus's values. And one of those values, which I think is critically important in ensuring a safe and welcoming living-learning community, is *inclusion*. We remain committed to ensuring an inclusive campus that will continue to prioritize the safety and security of all students. When outside organizations come onto our campus and give a high-profile platform for one-sided and divisive political positions that some view as deeply offensive, they are saying to valued members of our community that they don't belong. This is the antithesis of our commitment to inclusion, and we will not hesitate to speak out against efforts to divide our campus community.

**President Morton Schapiro and Provost Jonathan Halloway, Northwestern University,
Statement regarding Steven Thrasher by President and Provost, May 24, 2019**

<https://news.northwestern.edu/stories/2019/05/steven-thrasher/>

Steven Thrasher will join the faculty at Northwestern's Medill School of Journalism, Media, Integrated Marketing Communications on June 1. His professorship will focus on issues related to social justice, with an emphasis on topics relevant to the LGBTQ community.

Many were understandably offended by some of the comments made by Dr. Thrasher during his commencement speech at New York University earlier this week. We do not share all of his views, nor do we feel commencement was the appropriate venue to express them. However, academic freedom assures his right to hold them.

While Dr. Thrasher will not be the first Northwestern faculty member who supports the Boycott, Divestment, Sanctions (BDS) movement, Northwestern as an institution unequivocally rejects BDS. To the contrary, we value our many relationships with a variety of universities and research centers in Israel.

As always, Northwestern remains firmly committed to diversity, equity and inclusion. Our goal as an institution is to work toward constructive engagement within the context of freedom of academic inquiry and expression. We expect all members of our community to promote these values in an environment free of coercion and intimidation.

President Christina Paxson, Brown University, Letter from President Paxson: Responding to divestment referendum vote, March 22, 2019

<https://www.brown.edu/news/2019-03-22/referendum>

Excerpt:

I appreciate and respect that members of our community are concerned about the long-standing conflict between Israelis and Palestinians. I would like nothing better than to see peace, prosperity and stability for all people who live in the region.

That said, I am opposed to divestment from companies that conduct business in the West Bank and Gaza Strip. Brown's endowment is not a political instrument to be used to express views on complex social and political issues, especially those over which thoughtful and intelligent people vehemently disagree. As a university, Brown's mission is to advance knowledge and understanding through research, analysis and debate. Its role is not to take sides on contested geopolitical issues.

I have been steadfast in my view that Brown should not embrace any of the planks of the BDS (Boycott, Divest, Sanctions) movement. In 2013, when a number of academic associations called for academic boycotts of Israel, I made it clear that Brown would not support academic boycotts of Israel or any other country, since doing so would inhibit the open scholarly exchange that is critical for the advancement of knowledge. The previous year, I had rejected a recommendation from Brown's Advisory Committee on Corporate Responsibility in Investment Policies to initiate dialogue about possible divestment from companies that do business in the occupied territories, expressing the same view that the endowment is not to be used to assert views on contested social and political issues.

In recent weeks, I have discussed the referendum with many members of the Brown community — students, faculty, staff and alumni. It is very clear that members of our community feel strongly and deeply about the Israeli-Palestinian conflict, and I have been struck by the breadth of views about the best path to a just resolution. Beyond the foundational concern that divestment would be a political act, these conversations have strengthened my conviction that divestment would polarize the Brown community and detract from the inclusive, intellectually-vibrant community we aspire to be.

Many Brown students, faculty, staff and alumni have devoted themselves to the goal of a peaceful and just resolution of the Israeli-Palestinian conflict. I hope that instead of polarizing calls for divestment, the Brown community can continue to engage in productive discourse on this issue through our teaching, research and contributions to diplomacy.

President Martha Pollack, Cornell University (responding to a letter from Cornell University's SJP Chapter), February 28, 2019

<https://legalinsurrection.com/2019/02/cornell-president-to-students-for-justice-in-palestine-i-must-reject-your-call-for-bds-related-divestment/>

Dear Cornell Students for Justice in Palestine,

Thank you for your letter and for sharing your thoughts regarding the BDS movement. While I appreciate your dedication to the issues that are outlined in your letter, I must reject your call for BDS-related divestment.

Cornell is an educational institution, and its primary purpose is to further the education of students, and the general public, through our teaching, research and engagement mission. Cornell is not primarily an agent to direct social or political action, but rather a neutral forum for analysis, debate and the search for truth. Similarly, the principal purpose of our endowment is to provide income for advancing our mission-related objectives and must not be viewed as a means of exercising political or social power.

Given that your letter shares your broader perspective on the BDS movement, I must also take this opportunity to share mine, which is a strong opposition to BDS. BDS unfairly singles out one country in the world for sanction when there are many countries around the world whose governments' policies may be viewed as controversial. Moreover, it places all of the responsibility for an extraordinarily complex geopolitical situation on just one country and frequently conflates the policies of the Israeli government with the very right of Israel to exist as a nation, which I find particularly troublesome. And, although not mentioned in your petition, the BDS movement, consistent with its name, calls for boycott, including academic boycott, which is at odds with Cornell's core commitment to academic freedom and the open exchange of ideas. Since its founding, Cornell has cultivated countless academic collaborations abroad, relationships that we encourage even in countries that have governments with which some faculty, students, and alumni have significant disagreements. These partnerships have supported our teaching, research and engagement mission and have resulted in outcomes that have benefitted the people of many countries, including our own.

This is a challenging time in history, with our university and the country confronting difficult matters of race, religion and politics, to name just a few, that could easily divide us. Here at Cornell, I am heartened to see an honest commitment to the hard work of respectful dialogue and mutual understanding that can help us to overcome differences and to find a way forward. I hope that instead of polarizing calls for divestment, the community can engage in productive discourse around paths forward in the Middle East, drawing on the kind of thoughtful analysis that defines us as a university. The high ideals of our students, faculty and staff are an inspiration, and I am hopeful that our nation and our university will both emerge stronger as a result.

Thank you again for reaching out to me.

Sincerely,

Martha E. Pollack

Michele Wheatly, Syracuse University, Statement from Vice Chancellor and Provost Michele G. Wheatly Reinforcing University's Anti-Discrimination Policies, February 19, 2019

<https://news.syr.edu/blog/2019/02/19/statement-from-vice-chancellor-and-provost-michele-g-wheatly-reinforcing-universitys-anti-discrimination-policies/>

Syracuse University is aware of media reports about students receiving credit for internships with the Syracuse Peace Council, which sponsored a public forum at an off-campus site last month at which inflammatory comments about Israel and Palestinian groups were made by several speakers. None of those speakers is currently employed at Syracuse University and the University did not sponsor or endorse the event.

As stated in our anti-discrimination policies, there is absolutely no place at Syracuse University for anti-Semitism or behavior or language that degrades any individual or group, including on the basis of creed, ethnicity, citizenship, sexual orientation, national origin, sex, gender, pregnancy, disability, marital status, political or social affiliation, age, race, color, veteran status, military status, religion, sexual orientation, domestic violence status, genetic information, gender identity, gender expression or perceived gender. These are foundational values that drive our university initiatives and define our culture.

Syracuse University also supports and protects the principle of academic freedom. All members of the University community have a right to use the academic forum provided by the University to discuss controversial subjects and to express ideas with which some or most of the members of the community strongly disagree. As part of these principles, students may choose to participate in internships at private and nonprofit organizations that advocate for many different points of view. Providing credit for experiential learning does not imply that the University endorses any organization outside of its ability to provide an internship, but we support the desire to seek new knowledge and create perspectives based on scholarship and research.

Finally, Syracuse University has made clear we support and encourage discussion and debate around important and complex issues of peace, security and justice in the Middle East. As we have stated in the past, Syracuse University does not support any boycott of Israeli academic institutions or faculty, which run counter to the open exchange of knowledge, ideas and perspectives.

Office of the President, University of Michigan, October 9, 2018 (in response to students having letters of recommendation withheld in order to support the boycott of Israel)

<https://president.umich.edu/news-communications/letters-to-the-community/letter-important-questions-around-issues-of-personal-beliefs-our-responsibilities-as-educators-and-anti-semitism/>

Excerpt:

Withholding letters of recommendation based on personal views does not meet our university's expectations for supporting the academic aspirations of our students. Conduct that violates this expectation and harms students will not be tolerated and will be addressed with serious consequences. Such actions interfere with our students' opportunities, violate *their* academic freedom and betray our university's educational mission.

The denials are being addressed with those involved through our existing policies, but as an institution we do not share protected personnel information. We have apologized to the students themselves and worked to ensure that they have everything they need to complete their applications.

As we have stated, U-M strongly opposes a boycott of Israeli academic institutions, and no school, college, department or unit at our university endorses such a boycott. Our view is that educators at a public university have an obligation to support students' academic growth, and we expect anyone with instructional responsibilities to honor this fundamental university value. Our students deserve to be afforded all of the opportunities they have earned through their academic merit.

FINAL REPORT OF THE REGENTS WORKING GROUP ON PRINCIPLES AGAINST INTOLERANCE (March 24, 2016)

<https://regents.universityofcalifornia.edu/regmeet/mar16/e1attach.pdf>

INTRODUCTION: THE WORKING GROUP AND ITS PROCESS [EXCERPTS]

During the 2014-15 academic year, the Regents received correspondence and public comment from a variety of sources expressing concern that there has been an increase in incidents reflecting anti-Semitism on UC campuses. These reported incidents included vandalism targeting property associated with Jewish people or Judaism; challenges to the candidacies of Jewish students seeking to assume representative positions within student government; political, intellectual and social dialogue that is anti-Semitic; and social exclusion and stereotyping. Fundamentally, commenters noted that historic manifestations of anti-Semitism have changed and that expressions of anti-Semitism are more coded and difficult to identify. In particular, opposition to Zionism often is expressed in ways that are not simply statements of disagreement over politics and policy, but also assertions of prejudice and intolerance toward Jewish people and culture.

Anti-Semitism, anti-Semitic forms of anti-Zionism and other forms of discrimination have no place at the University of California. Most members of the University community agree with this conclusion and would agree further that the University should strive to create an equal learning environment for all students. This said, members of the community express widely divergent views about how the University should respond to incidents of overt, and more particularly, covert anti-Semitism and other forms of prohibited discrimination and intolerance. In light of the evolving nature of anti-Semitism, some commenters recommended that the Regents endorse or adopt a definition of anti-Semitism that has been attributed to the U.S. Department of State. They express the view that adopting a definition of anti-Semitism would help members of the University recognize and respond to anti-Semitism. Some commenters urged the Regents to sanction members of the University community who express views thought to be anti-Semitic, while others asserted that the State Department definition would sweep in speech protected by principles of academic freedom and the First Amendment. Sanctioning people based on their speech, they say, would violate the First Amendment. Others expressed concerns about defining and focusing on anti-Semitism alone when other forms of bias and prejudice also occur on UC campuses, but have not been specifically defined or addressed in Regents policy. Finally, some commenters asserted that expressions based on stereotypes, prejudice and intolerance impact the learning environment for some members of the University community, and that prohibiting such expressions altogether should be deemed a legitimate approach to enforcing the University's nondiscrimination policies.

At our September 2015 meeting, the Regents considered the adoption of a draft statement of principles against intolerance. After receiving public comment and engaging in extensive discussion, the Regents elected not to move forward with the draft in its then current form. Members cited a number of concerns that led to the decision not to move forward. In the end, Chair Monica Lozano announced the formation of a Working Group, to be chaired by Regent Eddie Island, and charged the Group with developing a statement reflecting the Board's discussion, as well as the principles of academic freedom and freedom of expression.

In the view of the Working Group, debate and community life on public university campuses inevitably reflect the social and political conflicts that surround us. Members of the UC community historically have been both the targets of injustice and the leaders of movements to promote equality and fairness. The unique environment of a public university campus, which serves as both a home and a workplace to tens of thousands of learners drawn from widely diverse experiences, often gives these debates added intellectual and emotional intensity.

Other incidents of prejudice and intolerance arise, not in connection with policy debates, but in acts of social exclusion, stereotyping, threats of violence or vandalism. At one extreme, rudeness may reflect stereotypes that

intentionally or unintentionally convey intolerance. At the other extreme, intolerance can include criminal behavior that can and should be reported, investigated, and where appropriate, sanctioned within the student or faculty discipline process, as appropriate, and/or the criminal justice system.

In light of the number and frequency of acts of intolerance reported by the commenters appearing before the Working Group, the group has concluded that the time is particularly apt for the Regents to reaffirm the special role and mission of the University of California and our aspirations for all members of the University of California community. Punishing expressions of prejudice and intolerance will not prevent such expressions or change the minds of speakers. In confronting statements reflecting bias, prejudice or intolerance, the University is uniquely situated to respond with more speech – to educate members of our community about the different histories and perspectives from which we approach important issues. As a public university, First Amendment principles and academic freedom principles must be paramount in guiding the University's response to instances of bias, prejudice and intolerance and its efforts to create and maintain an equal campus learning environment for all.

The Regents Policy on Policies (RP 1000), which calls on the Regents to adopt policies supporting the purpose, principles, and philosophy of the tripartite mission of the University, is at the core of the Working Group's efforts. The group notes that many existing University policies address issues related to intolerance on campus. Some have been previously adopted by the Regents while others have been adopted by the administration and/or Academic Senate. Others, particularly principles of community, have been adopted by individual campuses.

To supplement and enhance these existing policies, the Working Group proposes that the Regents adopt the accompanying Principles Against Intolerance. These Principles transcend specific examples of intolerance and, following directly from the University's mission, provide a consistent basis for responding to intolerant speech and acts. We expect that University leaders will consider both the Principles Against Intolerance and existing University policies to guide their actions.

REGENTS POLICY: PRINCIPLES AGAINST INTOLERANCE, MARCH 24, 2016

The mission of the University is to promote discovery and create and disseminate knowledge, to expand opportunities for all, and to educate a civil populace and the next generation of leaders. The University therefore strives to foster an environment in which all are included, all are given an equal opportunity to learn and explore, in which differences as well as commonalities are celebrated, and in which dissenting viewpoints are not only tolerated but encouraged. Acts of hatred and other intolerant conduct, as well as acts of discrimination that demean our differences, are antithetical to values of the University and serve to undermine its purpose.

University policy prohibits discrimination based on race, color, national origin, religion, sex, gender, gender expression, gender identity, pregnancy, physical or mental disability, medical condition (cancer-related or genetic characteristics), genetic information (including family medical history), ancestry, marital status, age, sexual orientation, citizenship, service in the uniformed services, or the intersection of any of these factors. Prohibited discrimination arising from historical biases, stereotypes and prejudices jeopardizes the research, teaching and service mission of the University. This mission is best served when members of the University community collaborate to foster an equal learning environment for all, in which all members of the community are welcomed and confident of their physical safety.

Human history encompasses many periods in which biased, stereotypical or prejudiced discourse, left unchallenged and uncontested, has led to enormous tragedy. In a community of learners, teachers, and knowledge-seekers, the University is best served when its leaders challenge speech and action reflecting bias, stereotypes, and/or intolerance. Anti-Semitism and other forms of discrimination have no place in the

University. The Regents call on University leaders actively to challenge anti-Semitism and other forms of discrimination when and wherever they emerge within the University community.

Freedom of expression and freedom of inquiry are paramount in a public research university and form the bedrock on which our mission of discovery is founded. The University will vigorously defend the principles of the First Amendment and academic freedom against any efforts to subvert or abridge them.

Each member of the University community is entitled to speak, to be heard, and to be engaged based on the merits of their views, and unburdened by historical biases, stereotypes and prejudices. Discourse that reflects such biases, stereotypes or prejudice can undermine the equal and welcoming learning environment that the University of California strives to foster. The University seeks to educate members of the community to recognize, understand and avoid biases, stereotypes and prejudices.

Regardless of whether one has a legal right to speak in a manner that reflects bias, stereotypes, prejudice and intolerance, each member of the University community is expected to consider his or her responsibilities as well as his or her rights. Intellectual and creative expression that is intended to shock has a place in our community. Nevertheless, mutual respect and civility within debate and dialogue advance the mission of the University, advance each of us as learners and teachers, and advance a democratic society.

Candidates for University leadership positions are entitled to consideration based on their stated views and actions, and in a manner consistent with the University's nondiscrimination policy. Efforts to discredit such candidates based on bias or stereotyping should not go unchallenged.

Actions that physically or otherwise interfere with the ability of an individual or group to assemble, speak, and share or hear the opinions of others (within time place and manner restrictions adopted by the University) impair the mission and intellectual life of the University and will not be tolerated.

Harassment, threats, assaults, vandalism, and destruction of property, as defined by University policy, will not be tolerated within the University community. Where investigation establishes that such unlawful conduct was targeted at an individual or individuals based on discrimination prohibited by University policy, University administrators should consider discipline that includes enhanced sanctions. In addition to discipline and consistent with the University's mission to educate members of our community, University administrators should use all available tools, including restorative justice techniques, to address such unlawful conduct, in order to foster learning and mutual respect.

The Regents call on University leaders to apply these Principles Against Intolerance and all other University policies directed to discrimination and intolerance to the full extent permissible under law. University leaders should assure that they have processes in place to respond promptly, and at the highest levels of the University, when appropriate, when intolerant and/or discriminatory acts occur. Such response should include consideration of support for members of the community directly affected by such acts.

APPENDIX 1B.

SELECT STATEMENTS ON BDS AND ANTISEMITISM BY PROFESSIONAL ACADEMIC ASSOCIATIONS

American Council of Trustees and Alumni (ACTA), Excerpts—*Campus Free Speech, Academic Freedom, and the Problem of the BDS Movement* March 2017

<https://www.goacta.org/wp-content/uploads/ee/download/Campus-Free-Speech.pdf>

Academic freedom imposes a duty to defend the right of even highly objectionable views and prejudices to be heard. Objectionable as they are, that includes words and ideas that a reasonable person would view as racist or anti-Semitic. Actions, however, are different—academic freedom is not a license for acts of discrimination. **And actions by proponents of the BDS movement have frequently crossed boundaries of appropriate protest and demonstration into unacceptable acts of anti-Semitism.**

Association of American Universities, Updated, January 14, 2016

<https://www.aau.edu/newsroom/press-releases/aau-board-reaffirms-opposition-israel-boycott>

The annual meeting of the American Anthropological Association recently approved a resolution in support of a boycott of Israeli academic institutions. The full membership will vote on the resolution this year. In light of these developments, the Board of Directors of the Association of American Universities reaffirms the Board's opposition to such boycotts and today reissues the 2013 statement on this subject by the then-Executive Committee of the association. (AAU has renamed its governing body.)

Association of Public and Land Grant Universities (APLU) Statement in Opposition to Boycott of Israeli Academic Institutions, January 2, 2014

<http://www.aplu.org/news-and-media/News/aplu-statement-in-opposition-to-boycott-of-israeli-academic-institutions>

January 2, 2014—The Executive Committee and the President of the Association of Public and Land-grant Universities (APLU) today issued the following statement on the recent call by some scholarly associations for a boycott of Israeli academic institutions.

“The Executive Committee and President of the Association of Public and Land-grant Universities (APLU) strongly oppose the boycott of Israeli academic institutions supported by certain U.S. scholarly organizations.

“The core mission of the academic community is to create and disseminate knowledge through research, teaching and service. Freedom of inquiry and expression are the foundational principles of this vital work, and free exchange of ideas is its lifeblood. This boycott wrongly limits the ability of American and Israeli academic institutions and their faculty members to exchange ideas and collaborate on critical projects that advance humanity, develop new technologies, and improve health and well-being across the globe.

“Members of the academic community certainly have the right to express their views, but the call for a boycott in this case is severely misguided and wrongheaded. We urge others to express their opposition as well.”

Randy Woodson, Chancellor, North Carolina State University, APLU Board Chair

Sally Mason, President, University of Iowa, APLU Board Immediate Past Chair

Jim Clements, President, Clemson University, APLU Board Chair-Elect

Bernadette Gray-Little, Chancellor, University of Kansas, APLU Council of Presidents Chair

Teresa Sullivan, President, University of Virginia, APLU Council of Presidents Secretary

Peter McPherson, President, APLU

Association of American Universities, Executive Committee, December 20, 2013

<https://www.aau.edu/sites/default/files/AAU-Files/News/aau-executive-committee-statement-on-israel-boycott-12-20-13.pdf>

AAU STATEMENT ON BOYCOTT OF ISRAELI ACADEMIC INSTITUTIONS

Following is a statement by the Executive Committee of the Association of American Universities on the academic boycott of Israeli academic institutions announced by several associations.

The Executive Committee of the Association of American Universities strongly opposes a boycott of Israeli academic institutions. Three U.S. scholarly organizations have now expressed support for such a boycott. Any such boycott of academic institutions directly violates academic freedom, which is a fundamental principle of AAU universities and of American higher education in general. Academic freedom is the freedom of university faculty responsibly to produce and disseminate knowledge through research, teaching, and service, without undue constraint. It is a principle that should not be abridged by political considerations. American colleges and universities, as well as like institutions elsewhere, must stand as the first line of defense against attacks on academic freedom. Efforts to address political issues, or to address restrictions on academic freedom, should not themselves infringe upon academic freedom. Restrictions imposed on the ability of scholars of any particular country to work with their fellow academics in other countries, participate in meetings and organizations, or otherwise carry out their scholarly activities violate academic freedom. The boycott of Israeli academic institutions therefore clearly violates the academic freedom not only of Israeli scholars but also of American scholars who might be pressured to comply with it. We urge American scholars and scholars around the world who believe in academic freedom to oppose this and other such academic boycotts.

William C. Powers, President, The University of Texas at Austin – Chair

Amy Gutmann, President, University of Pennsylvania – Vice Chair

Scott S. Cowen, President, Tulane University – Past Chair

Richard H. Brodhead, President, Duke University

Michael V. Drake, Chancellor, University of California, Irvine

Bernadette Gray-Little, The University of Kansas

Mark A. Nordenberg, Chancellor, University of Pittsburgh

Morton O. Shapiro, President, Northwestern University

Lou Anna K. Simon, President, Michigan State University

David Skorton, President, Cornell University

Hunter R. Rawlings III, President, Association of American Universities – *ex-officio*

American Association of University Professors (AAUP), Excerpts—Statement on Academic Boycotts
<https://www.aaup.org/report/academic-boycotts>

In spring 2005, the Association's Committee A on Academic Freedom and Tenure, in response to a controversy that was roiling the British academic community approved a statement condemning academic boycotts. The statement declared that since its founding in 1915, the AAUP has been committed to preserving and advancing the free exchange of ideas among academics irrespective of governmental policies and however unpalatable those policies may be viewed. We reject proposals that curtail the freedom of teachers and researchers to engage in work with academic colleagues, and we reaffirm the paramount importance of the freest possible international movement of scholars and ideas.

We affirm these core principles but provide further comment on the complexities of academic boycotts and the rationale for opposing them, and we recommend responses to future proposals to participate in them.... [The full statement explores the history of AAUP policy-making on boycotts, discusses the current anti-Israel boycott, and reasserts the AAUP position.]

Summary and Recommendations

1. In view of the Association's long-standing commitment to the free exchange of ideas, we oppose academic boycotts.
2. On the same grounds, we recommend that other academic associations oppose academic boycotts. We urge that they seek alternative means, less inimical to the principle of academic freedom, to pursue their concerns.
3. We especially oppose selective academic boycotts that entail an ideological litmus test. We understand that such selective boycotts may be intended to preserve academic exchange with those more open to the views of boycott proponents, but we cannot endorse the use of political or religious views as a test of eligibility for participation in the academic community.
4. The Association recognizes the right of individual faculty members or groups of academics not to cooperate with other individual faculty members or academic institutions with whom or with which they disagree. We believe, however, that when such noncooperation takes the form of a systematic academic boycott, it threatens the principles of free expression and communication on which we collectively depend.
5. Consistent with our long-standing principles and practice, we consider other forms of protest, such as the adoption of resolutions of condemnation by higher education groups intended to publicize documented threats to or violations of academic freedom at offending institutions, to be entirely appropriate.
6. Recognizing the existence of shared concerns, higher education groups should collaborate as fully as possible with each other to advance the interests of the entire academic community in addressing academic freedom issues. Such collaboration might include joint statements to bring to the attention of the academic community and the public at large grave threats to academic freedom.
7. The Association recognizes the right of faculty members to conduct economic strikes and to urge others to support their cause. We believe, however, that in each instance those engaged in a strike at an academic institution should seek to minimize the impact of the strike on academic freedom.
8. We understand that threats to or infringements of academic freedom may occasionally seem so dire as to require compromising basic precepts of academic freedom, but we resist the argument that

extraordinary circumstances should be the basis for limiting our fundamental commitment to the free exchange of ideas and their free expression.

JOAN WALLACH SCOTT (History), Institute for Advanced Study, chair

ERNST BENJAMIN (Political Science), Washington, D.C.

ROBERT M. O'NEIL (Law), University of Virginia

JONATHAN KNIGHT, staff

Subcommittee of Committee A on Academic Freedom and Tenure

APPENDIX II:

DOCUMENTS AND STATEMENTS ON CAMPUS FREE SPEECH AND ACADEMIC FREEDOM

APPENDIX 2A. SELECT UNIVERSITY STATEMENTS AND POLICIES ON FREEDOM OF EXPRESSION AND ACADEMIC FREEDOM

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Report of the Committee on Freedom of Expression at the University of Chicago (“Chicago Principles”) (2014)

<https://provost.uchicago.edu/sites/default/files/documents/reports/FOECommitteeReport.pdf>

<https://freeexpression.uchicago.edu/>

<https://www.thefire.org/chicago-statement-university-and-faculty-body-support/>

EXCERPT:

[...] Because the University is committed to free and open inquiry in all matters, it guarantees all members of the University community the broadest possible latitude to speak, write, listen, challenge, and learn. Except insofar as limitations on that freedom are necessary to the functioning of the University, the University of Chicago fully respects and supports the freedom of all members of the University community “to discuss any problem that presents itself.”

Of course, the ideas of different members of the University community will often and quite naturally conflict. But it is not the proper role of the University to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive. Although the University greatly values civility, and although all members of the University community share in the responsibility for maintaining a climate of mutual respect, concerns about civility and mutual respect can never be used as a justification for closing off discussion of ideas, however offensive or disagreeable those ideas may be to some members of our community.

The freedom to debate and discuss the merits of competing ideas does not, of course, mean that individuals may say whatever they wish, wherever they wish. The University may restrict expression that violates the law, that falsely defames a specific individual, that constitutes a genuine threat or harassment, that unjustifiably invades substantial privacy or confidentiality interests, or that is otherwise directly incompatible with the functioning of the University. In addition, the University may reasonably regulate the time, place, and manner of expression to ensure that it does not disrupt the ordinary activities of the University. But these are narrow exceptions to the general principle of freedom of expression, and it is vitally important that these exceptions never be used in a manner that is inconsistent with the University’s commitment to a completely free and open discussion of ideas.

In a word, the University’s fundamental commitment is to the principle that debate or deliberation may not be suppressed because the ideas put forth are thought by some or even by most members of the University community to be offensive, unwise, immoral, or wrong-headed. It is for the individual members of the University community, not for the University as an institution, to make those judgments for themselves, and to act on those judgments not by seeking to suppress speech, but by openly and vigorously contesting the ideas that they oppose. Indeed, fostering the ability of members of the University community to engage in such debate and deliberation in an effective and responsible manner is an essential part of the University’s educational mission.

As a corollary to the University’s commitment to protect and promote free expression, members of the University community must also act in conformity with the principle of free expression. Although members of the University community are free to criticize and contest the views expressed on campus, and to criticize and contest speakers who are invited to express their views on campus, they may not obstruct or otherwise interfere with the freedom of others to express views they reject or even loathe. To this end, the University has a solemn

responsibility not only to promote a lively and fearless freedom of debate and deliberation, but also to protect that freedom when others attempt to restrict it. [...]

Columbia University, Rules of University Conduct

http://senate.columbia.edu/committeepages/rules_committee/rules_of_university_conduct_guidelines+appendices_2018-19_20181017.pdf

§440. Affirmative Statement

The Rules of University Conduct, found in Chapter XLIV of the Statutes of Columbia University, are intended to ensure that all members of our community may engage in our cherished traditions of free expression and open debate. The University, as a forum for the pursuit and attainment of knowledge in every field of human endeavor, has a special role in fostering free inquiry. A principal reason why universities have endured and flourished over centuries is that they provide a place for ideas to be tested, for values to be questioned, and for minds to be changed with as few constraints as possible. Like society at large, but even more so, the University has a vital interest in fostering a climate in which nothing is immune from scrutiny. And Columbia, in particular, has a long tradition of valuing dissent and controversy and in welcoming the clash of opinions onto the campus.

To be true to these principles, the University cannot and will not rule any subject or form of expression out of order on the ground that it is objectionable, offensive, immoral, or untrue. Viewpoints will inevitably conflict, and members of the University community will disagree with and may even take offense at both the opinions expressed by others and the manner in which they are expressed. But the role of the University is not to shield individuals from positions that they find unwelcome. Rather, the University is a place for received wisdom and firmly held views to be tested, and tested again, so that members of the University community can listen, challenge each other, and be challenged in return.

The University recognizes only two kinds of limitations on the right of freedom of expression, and both are to be narrowly construed. First, the University reasonably regulates the time, place, and manner of certain forms of public expression. In keeping with the University's dedication to the principle of uninhibited discourse, these regulations do not turn on the content of any message that might be expressed. Rather, they are necessary not because they would prevent any opinion from being stated or heard, but, to the contrary, because they protect the rights of free speech, free press, and academic freedom. Just as all members of the University community have the right to speak, to study, research, to teach, and to express their own views, so must they allow others in the community to do the same. The right to demonstrate, for example, cannot come at the expense of the right of others to counter-demonstrate, to teach, or to engage in academic pursuits requiring uninterrupted attention. As is true of the larger community in which the University sits, the University must protect the rights of all to engage in their callings and express their own views.

Second, the University may restrict expression that constitutes a genuine threat of harassment, that unjustifiably invades an individual's privacy, or that falsely defames a specific individual. These forms of expression stand apart because they do little if anything to advance the University's truth-seeking function and they impair the ability of individuals at the University to participate in that function. The University has an obligation to assure members of its

community that they can continue in their academic pursuits without fear for their personal security or other serious intrusions on their ability to teach and to study.

Because of the University's function as an incubator of ideas and viewpoints, the principle of free expression must be jealously guarded. As President Bollinger has noted, "Our great institutions of higher education bear a special social responsibility for educating people to possess a nimble cast of mind, able to grasp multiple perspectives and the full complexity of a subject. And for centuries, great societies of all types have understood that this kind of intellectual capacity is essential to progress. But never have critical thinking and tolerance been more important for individual well-being and for our collective prosperity." Every member of our community therefore retains the right to demonstrate, to rally, to picket, to circulate petitions and distribute ideas, to partake in debates, to invite outsiders to participate, and to retain the freedom to express opinions on any subject whatsoever, even when such expression invites controversy and sharp scrutiny. Although the University values the civil and courteous exchange of viewpoints, it does not limit discussion because the ideas expressed might be thought offensive, immoral, disrespectful, or even dangerous. We expect that members of our community will engage in public discussions that may confront convention, and free expression would mean little if it did not include the right to express what others may reject or loathe.

Columbia University Code of Academic Freedom and Tenure

<http://www.columbia.edu/cu/vpaa/handbook/appendixb.html>

§70. Academic Freedom

- a. *Academic freedom* implies that all officers of instruction are entitled to freedom in the classroom in discussing their subjects; that they are entitled to freedom in research and in the publication of its results; and that they may not be penalized by the University for expressions of opinion or associations in their private or civic capacity; but they should bear in mind the special obligations arising from their position in the academic community.
- b. *Officers of Instruction.* As used in this Chapter, "officer of instruction" means any person whose appointment in the Columbia Corporation is primarily for teaching, whether full-time or part-time, with or without tenure, whatever his or her title or type of appointment held, and whether or not assigned to membership in any Faculty. Where the provisions of this Chapter apply only to full-time officers of instruction, or only to those with tenure, necessary qualification is made.

Report of Colgate University's Task Force on Academic Freedom and Freedom of Expression
(October 2018)

<https://www.colgate.edu/about/offices-centers-institutes/provost-and-dean-faculty/academic-freedom-and-freedom-expression>

EXCERPT:

A community dedicated to a mission such as Colgate's must stand upon the bedrock principles of intellectual freedom—freedom of expression and academic freedom. This freedom to speak, to write, to listen, to question, to challenge, and to examine any problem that engages one's interest is essential for living thought. Such freedom is not only a crucial means for the pursuit of knowledge, but a constitutive part of it; propositions learned by rote, protected from challenge, do not further our pursuit of knowledge or our attainment of understanding. **Accordingly, the University should support a climate of debate and deliberation that is open and robust, and must not suppress ideas because some consider them wrong, immoral, or offensive** [bold in original].

The Task Force also recognizes that the principles of freedom of expression and academic freedom are not without boundaries. There are certain forms of expression that stand outside the law, constitute no part of the search for truth, and, accordingly, find no shelter here. These include expressions that falsely defame a specific individual, that constitute true threats or harassment, that unjustifiably invade substantial interests of privacy or confidentiality, or that incite imminent lawless action. Further, to facilitate the exchange of ideas and arguments and avoid disruption of its educational functions, the University may enact content neutral rules concerning time, manner, and place of expression. But such concerns must never be used as a pretext for the University to suppress disfavored opinions or compromise the principle of intellectual freedom. The Task Force urges the University to be guided by the principles of the First Amendment and, within reason, to err on the side of permitting expression and inquiry without concern of punishment.

The shared values of the Colgate community and the University's commitment to free expression and inquiry play complementary roles in working toward fulfilling Colgate's mission. Free expression is more powerful when we, as members of our broader community, consider the perspectives of the people with whom we are communicating and when we approach discussion and debate with a spirit of humility, curiosity, generosity, and care. All members of our community can benefit from instances in which we voluntarily limit our expressions and inquiries to make room for others to speak, to listen better, and to keep our own minds open to the views of others.

As a community, we must be mindful that the exercise of intellectual freedom without consideration of these other values can and does cause harm to others, and these harms often linger long after the harmful words have been spoken. Freedom of expression that is unconstrained by a spirit of toleration and a sensitivity to the views and backgrounds of others can cause needless damage to our community. At times, expressions of free speech, even when exercised in all fairness of spirit, can hurt others, particularly over matters about which we care deeply but differ sharply. The Task Force encourages all members of our community to recognize that expressions can carry different weights depending on both who says and who receives them, resulting in potentially disparate effects on different members of our community.

The university's commitment to freedom of expression and inquiry may occasionally come into conflict with certain of Colgate's shared values. **Freedom of expression should not be stifled in service of other values; however, while this freedom must be defended, the Task Force urges all of us to cultivate by example the values of the Colgate community** [bold in original]. Inquiry and expression that carefully consider the perspectives of others are learned skills that require sustained effort and practice; Colgate should strive to provide a supportive environment in which its members can develop these lifelong habits of mind and behavior.

Miami University Policy on Right of Expression of Students (July 2019)

<https://miamioh.edu/policy-library/students/undergraduate/student-life/right-of-expression-of-students.html>

In a democratic society, the true test of our beliefs and values is how we express and respond to disparate views. Miami University encourages free expression in all its forms, including the expression of dissent.

The University believes that the right of expression is as necessary as the right of inquiry and that both must be preserved as essential to the pursuit and dissemination of knowledge and truth. Consequently, students, individually and collectively, are encouraged to express their views through the normal faculty, administrative, and student channels of communication. Students also may express their views by demonstrating peacefully for causes and concepts they support or oppose, and the University will make every reasonable effort to protect that right.

The University has an equal and simultaneous obligation to protect the rights and freedoms of students who do not choose to participate in a demonstration. Similarly, the University is obligated to protect its property and to prohibit interference with scheduled activities of students, University personnel, and guests on campus. These obligations, however, do not authorize the University to infringe upon the rights of students and student organizations to hold and express disparate beliefs. Miami University supports the right of students to engage in peaceful demonstrations, protests, or other expressions of student attitudes without regard to the cause or the viewpoint being promoted by the student participants.

We affirm the right and even the obligation of members of our community to speak out about issues with which they disagree, but encourage students to do so in a manner that is respectful and does not violate the rights of others.

Brandeis University Principles of Free Speech and Free Expression (September 2018)

<https://www.brandeis.edu/free-expression/principles/index.html>

1. Maximizing Free Speech in a Diverse Community

All members of Brandeis should be able to put forth ideas for consideration, engagement, and criticism by others, as such exchanges are core to the mission of institutions of higher learning. We explicitly connect free speech concerns with our desire for a diverse, inclusive community. Free expression, including the arts, implies the free exchange of ideas — talking and listening. We endorse as a principle for action Louis Brandeis’ remark: “If there be a time to expose through discussion the falsehood and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence.” The university has a responsibility to encourage the airing of the widest range of political and scholarly opinions and to prevent attempts to shut down conversations, no matter what their topic.

2. Developing Skills to Engage in Difficult Conversations

The Brandeis community rightly prides itself on debating difficult issues vigorously. To introduce prior restraint by attempting to define realms of prohibited speech would be for the administration to produce a chilling effect upon speech and exchange of views on campus. Reaching our fullest potential in this regard will entail an ongoing educational process, a curriculum that exposes students and the entire community to various viewpoints, and a long institutional memory about how free expression operates and has operated at Brandeis. All this will require the intellectual courage to risk discomfort for the sake of greater understanding.

3. Sharing Responsibility

All members of the Brandeis community bear the moral responsibility for their actions and the impact those actions have on the community. Open-minded disagreement can be a marker of respect, the sort of response for which we strive. We should embrace civility, but in the larger sense: an issue can be engaged with emotion, and even a raised voice, if the humanity of all involved is respected. We should work toward a campus life that promotes the expression of a diverse set of intellectual, political, cultural, and social outlooks. The university’s commitment to freedom of expression is an essential part of the ethical and intellectual imperative to strive for diversity and inclusion on campus. The university must find ways to engage the whole community about each person’s responsibility to foster a just and inclusive campus culture so that all can participate fully in the intellectual and social life of the university.

4. Rejecting Physical Violence

Peaceful protest is fully appropriate to an environment of vigorous discussion and debate, but physical violence of any kind or the prevention of speech is unacceptable. Once violence is normalized as an ingredient of free expression, it sets the pattern, ending rather than supporting free expression.

5. Distinguishing between Invited Speakers and University Honorees

Brandeis should provide space for campus organizations of all sorts, including invitations to outside speakers: such openness does not constitute a university endorsement of the organizations or the speakers. However, there are certain circumstances, especially the granting of

honorary degrees, in which an invitation issued by the university does constitute an endorsement of some major aspect of their life or work. A protest against the university for making a disfavored choice for a prestigious honor is not, in itself, an attack on free speech.

6. Institutional Restrictions

The freedom to debate and discuss ideas does not mean that individuals may say whatever they wish, wherever they wish, or however they wish. In narrowly-defined circumstances, the university may restrict expression, as for example, that violates the law, that falsely defames a specific individual, that constitutes a genuine threat or harassment, that unjustifiably invades substantial privacy or confidentiality interests, or that is otherwise directly incompatible with the functioning of the university.

Amherst College Statement of Academic and Expressive Freedom (May 2016)

https://www.amherst.edu/academiclife/provost_dean_faculty/fph/fachandbook/preintroduction

Institutions of higher learning dedicate themselves to a range of goals: the pursuit of truth and knowledge, the refinement and transmission of intellectual skills, the articulation of values, the creation of works of artistic merit, and the critical examination of received wisdom. The promotion of these goals requires unstinting dedication to academic and expressive freedom. Such freedom protects the right of members of the academic community to speak, write, curate, and create without obstruction, disruption, or the fear of institutional censure, censorship, or retaliation.

This strong commitment to the freedom of inquiry lies at the heart of Amherst College's mission to create a home in which the liberal arts may flourish. As a small residential liberal arts college that prides itself on the ability, curiosity, and diversity of its students, Amherst seeks to create a respectful environment in which members of its community feel emboldened to pursue their intellectual and creative passions. At times, the desire to foster a climate of mutual respect may test the college's duty to protect and promote the unfettered exchange of ideas. On such occasions, the college's obligations remain clear. The liberal arts cannot thrive absent the freedom to espouse and debate ideas that are unpopular, controversial, discomfiting—and even seemingly wrongheaded or offensive. Members of an academic community may and, indeed, should challenge and oppose ideas they find offensive and loathsome. Yet the response to disagreeable and even insulting ideas must not contravene the commitment to expressive freedom that enables the college to thrive as a space of liberal inquiry.

Even the most vigorous defense of intellectual and creative freedom knows limits. The college may properly restrict speech that, for example, is defamatory, harassing, invades a protected right to privacy or confidentiality, constitutes incitement to imminent violence, or otherwise violates the law. It may place reasonable limitations on the time, place, and manner of expression, and may restrict speech that directly interferes with core instructional and administrative functions of the college. But these restrictions and limitations must be understood as narrow exceptions to the college's overriding commitment to robust open inquiry (voted by the faculty, May 3, 2016).

Amherst College subscribes fully to the AAUP statements of principles on academic freedom published in 1940, and assumes that faculty members know their rights and their responsibilities as members of the academic profession.

Arizona State University Adoption of Chicago Statement of Freedom of Expression (August 2018)
<https://provost.asu.edu/adoption-chicago-statement-freedom-expression>

EXCERPT:

Because the University is committed to free and open inquiry in all matters, it guarantees all members of the University community the broadest possible latitude to speak, write, listen, challenge, and learn. Except insofar as limitations on that freedom are necessary to the functioning of the University, the University fully respects and supports the freedom of all members of the University community “to discuss any problem that presents itself.”

Of course, the ideas of different members of the University community will often and quite naturally conflict. But it is not the proper role of the University to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive. Although the University greatly values civility, and although all members of the University community share in the responsibility for maintaining a climate of mutual respect, concerns about civility and mutual respect can never be used as a justification for closing off discussion of ideas, however offensive or disagreeable those ideas may be to some members of our community.

The freedom to debate and discuss the merits of competing ideas does not, of course, mean that individuals may say whatever they wish, wherever they wish. The University may restrict expression that violates the law, that falsely defames a specific individual, that constitutes a genuine threat or harassment, that unjustifiably invades substantial privacy or confidentiality interests, or that is otherwise directly incompatible with the functioning of the University. In addition, the University may reasonably regulate the time, place, and manner of expression to ensure that it does not disrupt the ordinary activities of the University. But these are narrow exceptions to the general principle of freedom of expression, and it is vitally important that these exceptions never be used in a manner that is inconsistent with the University’s commitment to a completely free and open discussion of ideas.

In a word, the University’s fundamental commitment is to the principle that debate or deliberation may not be suppressed because the ideas put forth are thought by some or even by most members of the University community to be offensive, unwise, immoral, or wrong-headed. It is for the individual members of the University community, not for the University as an institution, to make those judgments for themselves, and to act on those judgments not by seeking to suppress speech, but by openly and vigorously contesting the ideas that they oppose. Indeed, fostering the ability of members of the University community to engage in such debate and deliberation in an effective and responsible manner is an essential part of the University’s educational mission.

As a corollary to the University’s commitment to protect and promote free expression, members of the University community must also act in conformity with the principle of free expression. Although members of the University community are free to criticize and contest the views expressed on campus, and to criticize and contest speakers who are invited to express their views on campus, they may not obstruct or otherwise interfere with the freedom of others to express views they reject or even loathe. To this end, the University has a solemn responsibility not only to promote a lively and fearless freedom of debate and deliberation, but also to protect that freedom when others attempt to restrict it.

Without a vibrant commitment to free and open inquiry, a university ceases to be a university.

State University System of Florida Statement on Free Expression (April 2019)

<https://www.politico.com/states/f/?id=0000016a-215c-ded4-affa-23df98de0001>

The State University System of Florida and its twelve public postsecondary institutions adopt this Statement on Free Expression to support and encourage full and open discourse and the robust exchange of ideas and perspectives on our respective campuses. The principles of freedom of speech and freedom of expression in the United States and Florida Constitutions, in addition to being legal rights, are an integral part of our three-part university mission to deliver a high quality academic experience for our students, engage in meaningful and productive research, and provide valuable public service for the benefit of our local communities and the state. The purpose of this Statement is to affirm our dedication to these principles and to seek our campus communities' commitment to maintaining our campuses as places where the open exchange of knowledge and ideas furthers our mission.

A fundamental purpose of an institution of higher education is to provide a learning environment where divergent ideas, opinions and philosophies, new and old, can be rigorously debated and critically evaluated. Through this process, often referred to as the marketplace of ideas, individuals are free to express any ideas and opinions they wish, even if others may disagree with them or find those ideas and opinions to be offensive or otherwise antithetical to their own world view. The very process of debating divergent ideas and challenging others' opinions develops the intellectual skills necessary to respectfully argue through civil discourse. Development of such skills leads to personal and scholarly growth and is an essential component of the academic and research missions of each of our institutions.

It is equally important not to stifle the dissemination of any ideas, even if other members of our community may find those ideas abhorrent. Individuals wishing to express ideas with which others may disagree must be free to do so, without fear of being bullied, threatened or silenced. This does not mean that such ideas should go unchallenged, as that is part of the learning process. And though we believe all members of our campus communities have a role to play in promoting civility and mutual respect in that type of discourse, we must not let concerns over civility or respect be used as a reason to silence expression. We should empower and enable one another to speak and listen, rather than interfere with or silence the open expression of ideas.

Each member of our campus communities must also recognize that institutions may restrict expression that is unlawful, such as true threats or defamation. Because universities and colleges are first and foremost places where people go to engage in scholarly endeavors, it is necessary to the efficient and effective operations of each institution for there to be reasonable limitations on the time, place, and manner in which these rights are exercised. Each institution has adopted regulations that align with Florida's Campus Free Expression Act, section 1004.097, Florida Statutes, and with the United States and Florida Constitutions and the legal opinions interpreting those provisions. These limitations are narrowly drawn and content-neutral and serve to ensure that all members of our campus communities have an equal ability to express their ideas and opinions, while preserving campus order and security.

University of Florida Freedom of Expression Statement (April 2019)

<http://statements.ufl.edu/statements/2019/april/freedom-of-expression-statement.html>

As a world-class research institution, the University of Florida (“UF”) fosters an environment where divergent ideas, opinions and philosophies, new and old, can be rigorously discussed and critically evaluated in the academic environment. At the same time, as a public institution, UF must provide First Amendment protections to its students, employees and other members of the community. UF’s commitment to these protections, however, runs deeper than simply a legal requirement. We believe at our core that the academic excellence and inclusiveness values we strive for could not be achieved unless we fully adhere to these First Amendment principles. The purpose of this statement is to explain what UF’s commitment entails, as well as our rights and responsibilities under these principles.

To achieve our goal of independent inquiry and vigorous academic deliberation, UF will not stifle the dissemination of any idea, even if some members of our community find it wrong-headed, offensive or hateful. Rather, UF will ensure that individuals expressing such ideas are able to do so free from bullying, violence, threat of violence or any other type of disruptive behavior.

This does not mean, however, that UF believes such ideas should go unchallenged. In fact, UF encourages members of its community to analytically and respectfully challenge contrary ideas so long as such challenges are conducted in a civil manner that does not stifle the open expression of the opposing ideas. Thus, such challenges must not interfere with speakers’ ability to speak or with their audience’s ability to hear the speakers.

Developing the intellectual skills necessary to respectfully and responsibly analyze, discuss and challenge the merits of contradicting (or even offensive) opinions and ideas, through counter arguments and civil discourse, is a key element of both personal and scholarly growth. Teaching such skills, in turn, is a crucial component of UF’s academic mission.

The preceding information is not meant to suggest that there are no limits on the expression of one’s ideas. First, UF will restrict any speech that violates the law including, but not limited to, genuine threats of violence or harm and statements designed to incite others to engage in imminent unlawful conduct. Second, in order to ensure that the successful functioning of UF is not disrupted or impeded, UF imposes reasonable time, place and manner restrictions on speech and expression. For example, UF typically prohibits electronically amplified instruments in academic areas in order to ensure classes are not disrupted. Such restrictions, set forth in UF’s regulations and policies, are narrowly-drawn and content-neutral; they are designed to preserve campus order and security, while also ensuring that all members of the UF community have an equal ability to express their ideas and opinions.

Finally, in accordance with First Amendment principles and the State of Florida’s *Campus Free Expression Act*, (Florida Statutes section 1004.097), *UF does not restrict free expression rights to specific areas of campus, often referred to as “free speech zones.” Rather, UF considers outdoor areas of campus (accessible areas of campus where members of our community are commonly allowed, including, but not limited to, grassy areas, walkways or other common areas) as traditional public forums. In those areas, any person can engage in spontaneous or contemporaneous expressive activity so long as the person’s conduct remains lawful, does not disrupt the functioning of UF, and does not infringe upon or obstruct any other person’s rights to engage in their own expressive activities.*

Documents influencing the creation of this Freedom of Expression Statement include the following: *Free Speech on Campus*, Chemerinsky and Gillman (2017); Texas A&M University, *Free Speech and the Right to Associate* (2018); *Purdue University*, *Commitment to Freedom of Expression*; and UC Davis, Chapter 400, Campus Climate, Section 01, *Freedom of Expression* (2018).

Ball State University Statement on Freedom of Expression (January 2020)

<https://www.bsu.edu/about/freedom-of-expression>

- 1.1 Freedom of expression is enshrined in the First Amendment to the United States Constitution and Ball State University's Bill of Rights and Responsibilities. Therefore, Ball State University is committed to free and open inquiry in all matters, and our University guarantees all members of the University community—including students, faculty, staff, and visitors—the broadest possible latitude to speak, write, listen, challenge, and learn. Except insofar as limitations on that freedom are necessary to the functioning of our University, Ball State fully respects and supports freedom of expression of all members of the University community. Our University endeavors to maintain a culture and community that will inspire our members to pursue knowledge with rigor and curiosity, to speak with care, and to work so that even the quietest or most underrepresented voices among us are heard. In the Beneficence Pledge, members of the Ball State community “pledge to value the intrinsic worth of every member of the community/To respect and learn from differences in people, ideas, and opinions.”
- 1.2 The ideas of different members of the University community will often and quite naturally conflict. It is not the proper role of our University, however, to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive. Our University greatly values civility, and all members of the University community share in the responsibility for maintaining a climate of mutual respect. But concerns about civility and mutual respect can never be used as a justification for closing off discussion of ideas, irrespective of how offensive or disagreeable those ideas may be to some members of our community.
- 1.3 The freedom to debate and discuss the merits of competing ideas does not, though, mean that individuals may say whatever they wish, wherever they wish. Our University may restrict expression that violates the law, that falsely defames a specific individual, that constitutes a genuine threat or harassment, that unjustifiably invades substantial privacy or confidentiality interests, or that is otherwise directly incompatible with the functioning of the University. In addition, our University may reasonably regulate the time, place, and manner of expression to ensure that it does not disrupt the ordinary activities of our University. But these are narrow exceptions to the general principle of freedom of expression, and it is vitally important that these exceptions never be used in a manner that is inconsistent with our University's commitment to a completely free and open discussion of ideas.
- 1.4 Simply put, our University's fundamental commitment is to the principle that debate or deliberation may not be suppressed because the ideas put forth are thought by some or

- even by most members of the University community to be offensive, unwise, immoral, or wrong-headed. It is for the individual members of the University community, not for our University as an institution, to make those judgments for themselves, and to act on those judgments not by seeking to suppress speech, but by openly and vigorously contesting the ideas that they oppose. Indeed, fostering the ability of members of the University community to engage in such debate and deliberation in an effective and responsible manner is an essential part of our University's educational mission.
- 1.5 As a corollary to our University's commitment to protect and promote free expression, members of the University community must also act in conformity with the principle of free expression. Members of the University community are free to criticize and contest the views expressed on campus, and to criticize and contest speakers who are invited to express their views on campus. But they may not obstruct or otherwise interfere with the freedom of others to express views they reject or even loathe. To this end, our University has an enduring responsibility to promote a lively and fearless freedom of debate and deliberation and to protect that freedom when others attempt to restrict it.
 - 1.6 Ball State's commitment to freedom of expression comports with our commitment to inclusive excellence, which encompasses encouraging and rewarding diversity of thought, innovation, and creativity. We define inclusiveness, one of our University's enduring values, as a commitment "to respect and embrace equity, inclusion, and diversity in people, ideas, and opinions." As members of the Ball State University community, we will provide opportunities for all to express their opinions. It is our hope that, as we engage in free expression, we will learn to be comfortable in the dissidence that opposing views can often evoke. Freedom of expression is a powerful tool for testing ideas, for learning, and for growth. We pledge to keep inclusive excellence at the highest level of institutional importance and as a foundation in all that we do.

Adapted from the Report from the Committee on Freedom of Expression at the University of Chicago, 2014.

University of Colorado Policy on Freedom of Expression (September 2018)
<https://www.cu.edu/regents/policy/1>

EXCERPT:

(D) Freedom of Expression by University of Colorado Faculty

- (1) When engaged in teaching and research, faculty enjoy the associated rights and observe the associated responsibilities of academic freedom as expressed in regent policy 5.B.
- (2) University faculty are members of our communities and members of a learned profession. When university faculty speak or write as citizens, not in furtherance of their university duties or in the course and scope of their university employment, on matters of political, academic, artistic, or social concern, the university shall not censor their expression, initiate disciplinary action against them, or otherwise subject the faculty members to adverse employment actions because it disapproves of the substance of their expression.
- (3) When university faculty speak or write in their personal capacities, not in furtherance of their university duties or in the course and scope of their university employment, they must make every effort to indicate that their expression is their own and does not represent the opinion or position of the university.
- (4) The freedom of expression recognized in this section does not grant university faculty the right to refuse to perform official duties, to materially disrupt the university environment or university activities, or to disregard the standards of ethical conduct as expressed in article 8, part B of the Laws of the Regents or regent policy 8.A.

(E) Freedom of Expression by University of Colorado Staff

- (1) All staff of the university are members of our communities. When staff of the university speak or write in their personal capacities, not in furtherance of their university duties or in the course and scope of their university employment, on matters of political, academic, artistic, or social concern, the university shall not censor their expression, initiate disciplinary action against them, or otherwise subject the staff members to adverse employment actions because it disapproves of the substance of their expression.
- (2) When staff of the university speak or write as citizens, they must make every effort to indicate that their expression is their own and does not represent the opinion or position of the university.
- (3) The freedom of expression recognized in this section does not grant staff of the university the right to refuse to perform official duties, to materially disrupt the university environment or university activities, or to disregard the standards of ethical conduct as expressed in article 8, part B of the Laws of the Regents or regent policy 8.A.

(F) Freedom of Expression by University Students

- (1) When engaged in educational activities, university students enjoy the associated rights and observe the associated responsibilities of academic freedom as expressed in article 7, part C of the Laws of the Regents.
- (2) University students are members of our communities. When university students speak or write in their personal capacities on matters of political, academic, artistic, or social concern, not in furtherance of their studies or in the course of their academic duties, the university shall not censor their expression, initiate disciplinary action against them, or

otherwise subject the students to adverse academic actions because it disapproves of the substance of their expression.

- (3) The freedom of expression recognized in this section does not grant university students the right to materially disrupt the university environment or university activities or to disregard the standards of conduct as promulgated under article 7, part C of the Laws of the Regents.

University of Minnesota Board of Regents Policy: *Academic Freedom and Responsibility* (Adopted September 1995; amended June 2009, May 2011)

https://regents.umn.edu/sites/regents.umn.edu/files/2019-09/policy_academic_freedom_and_responsibility.pdf

SECTION I. GUIDING PRINCIPLES.

The Board of Regents (Board) of the University of Minnesota (University) reaffirms the principles of academic freedom and responsibility. These are rooted in the belief that the mind is ennobled by the pursuit of understanding and the search for truth, and the state well served when instruction is available to all at an institution dedicated to the advancement of learning. These principles are also refreshed by the recollection that there is *commune vinculum omnibus artibus*, a common bond through all the arts.

SECTION II. ACADEMIC FREEDOM.

Academic freedom is the freedom, without institutional discipline or restraint, to discuss all relevant matters in the classroom, to explore all avenues of scholarship, research, and creative expression, and to speak or write on matters of public concern as well as on matters related to professional duties and the functioning of the University.

SECTION III. ACADEMIC RESPONSIBILITY.

Academic responsibility implies the faithful performance of professional duties and obligations, the recognition of the demands of the scholarly enterprise, and the candor to make it clear that when one is speaking on matters of public interest, one is not speaking for the institution.

American Association of University Professors (AAUP) 1940 *Statement of Principles on Academic Freedom and Tenure*

<https://www.aaup.org/file/1940%20Statement.pdf>

EXCERPT:

Academic Freedom

1. Teachers are entitled to full freedom in research and in the publication of the results, subject to the adequate performance of their other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.
2. Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject. Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment.
3. College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.

American Association of Universities (AAU) Statement of Free Speech on Campus (April 2018)

<https://www.aau.edu/newsroom/press-releases/aau-presidents-and-chancellors-reaffirm-commitment-free-speech-campus>

The free and open exchange of ideas and information is fundamental to the educational mission of AAU universities. The robust discussions and debates that occur at research universities have been central to the advancement of democracy, the creation of new knowledge, the fostering of educational excellence, and the promotion of social progress. As heads of these institutions we are unequivocally committed to preserving and honoring this proud heritage.

While we may deem some speech to be odious, disgraceful, and antithetical to our values, our campuses are and should remain places where ideas can be expressed free of disruption, intimidation, and violence.

We are committed to preparing our students, faculty, and staff to engage in thoughtful, non-disruptive debate. Our collective responsibility to educate our campus communities on their rights and responsibilities is of the utmost importance and one we embrace. While protecting the expression of ideas, we will also take all steps necessary to promote an inclusive and non-discriminatory learning environment, and protect our communities from those who seek to promote conflict rather than conversation, debate, and advocacy.

We will continue to prepare students, faculty, and staff to engage in frank, open, and often challenging discussions. Our universities will also work to ensure that campus policies on speech, events, dissent, and other protected activities are publicly and conveniently available. We believe these actions are critical for our institutions to remain at the forefront of ensuring that substantive and non-violent speech is fully protected and welcomed in our society.

In restating these values, we aspire to be a model for society of how a free and democratic people should work through disagreements and arrive at a deeper understanding of important issues and of each other.

Final Report of the [University of California Board of] Regents Working Group on Principles Against Intolerance (“UC Regents Principles Against Intolerance”) (March 2016)
<https://regents.universityofcalifornia.edu/regmeet/mar16/e1attach.pdf>

EXCERPT:

Regents Policy: Principles Against Intolerance

...

- c. Human history encompasses many periods in which biased, stereotypical or prejudiced discourse, left unchallenged and uncontested, has led to enormous tragedy. In a community of learners, teachers, and knowledge-seekers, the University is best served when its leaders challenge speech and action reflecting bias, stereotypes, and/or intolerance. Anti-Semitism and other forms of discrimination have no place in the University. The Regents call on University leaders actively to challenge anti-Semitism and other forms of discrimination when and wherever they emerge within the University community.
- d. Freedom of expression and freedom of inquiry are paramount in a public research university and form the bedrock on which our mission of discovery is founded. The University will vigorously defend the principles of the First Amendment and academic freedom against any efforts to subvert or abridge them.

...

Academic Engagement Network (AEN) Letter to University of California President Janet Napolitano, UC Board of Regents, and UC Chancellors (November 30, 2016)
<http://academicengagement.org/wp-content/uploads/2019/09/AEN-Letter-to-UC-Regents-11-30-16-.pdf>

EXCERPT:

Dear Regents, President Napolitano and Chancellors:

We continue to commend you for the unanimous decision of the Board of Regents to adopt and seek implementation of its Principles Against Intolerance, a landmark declaration in addressing intolerance, discrimination, and antisemitism. [...]

Notwithstanding this achievement, you are being urged by some detractors to repeal the Principles Against Intolerance. [...]

The UC Regents statement of Principles Against Intolerance is the best tool thus far developed by any public or private university to confront racism, Islamophobia, and antisemitism and to ensure equal treatment of all. There is not a shred of evidence that the statement of Principles, embracing a broad policy of non-discrimination and closely adhering to First Amendment dictates, is harmful to Arabs or Muslims, harms learning environments, or limits free speech rights. The Principles clearly prioritize free speech on public campuses; the decision not to enact disciplinary rules along with the Principles clearly recognizes the overarching value of freedom of expression. The Principles call on university leaders to confront hateful speech with critical speech, in other words to provide moral leadership.

The Palestine Legal letter remarks that the original Regents' statement failed to define "anti-Semitic forms of anti-Zionism." Operationally, this is because the Principles adopt a common law approach to intolerance: the campuses will seek to define the concepts in light of their respective experiences. It would have been odd for the Regents or its working group to try to define with clarity and authority where antisemitism and anti-Zionism have come in recent years to overlap and interact. This is now the business of the respective universities integrating the Principles into practice and also of scholars studying antisemitism, who are equipped to offer practical guidance as to what is antisemitic anti-Zionism and what are its properties. [...]

In the context of concern for undocumented and special status students on campuses, President Napolitano recently highlighted the Principles as an aspiration for campus life:

Diversity is central to our mission. We remain absolutely committed to supporting all members of our community and adhering to UC's Principles Against Intolerance. As the Principles make clear, the University "strives to foster an environment in which all are included" and "all are given an equal opportunity to learn and explore."

[...]

Foundation for Individual Rights in Education (FIRE) Statement on Campus Censorship during Nationwide Protests (June 4, 2020)

<https://www.thefire.org/fire-statement-on-campus-censorship-during-nationwide-protests/>

EXCERPT:

George Floyd's death and the subsequent reaction has provoked a wide variety of responses in college communities, including some that many find deeply offensive or that involve the use of racial slurs. But while the level of passion with which these issues have been argued in recent days may have changed, the underlying First Amendment principles have not. The overwhelming majority of such expression, whether it supports or criticizes peaceful protests, police tactics, or violent disturbances, is protected — either by the First Amendment, by universities' own promises of free expression, or both. FIRE will continue to defend speakers' right to exercise their expressive rights regardless of viewpoint. Universities committed to free expression must do so as well.

While college restrictions on speech appear thus far to be broadly aimed at silencing racially offensive or insensitive expression online, views falling on all sides of the current national debate, in a wide variety of situations, have been impacted. Temple University has flatly said it will punish “[s]tudents who share messages of hate.” The University of Delaware, Clemson University, Valdosta State University, and Framingham State University have all announced (in some cases multiple) investigations into racially offensive student social media posts. Northwestern University and the University of Alabama at Birmingham are facing calls to punish or fire professors for their seeming support of rioting or property damage. This list is hardly exhaustive.

Already this week, FIRE has written to the Ohio State University condemning the Columbus Division of Police's use of pepper spray on student journalists covering protests adjoining campus, and to Weber State University in Utah for placing a tenured professor on leave over tweets endorsing violence against protestors and a journalist. The rights of students and faculty members to express their opinions regardless of viewpoint must continue to be preserved, and we call on others to join us in holding colleges and universities to account when they fail in their responsibility to do so.

During the political and social upheaval of the late 1960s and early '70s, the Supreme Court firmly protected students' First Amendment rights. In Healy v. James, the court noted the “climate of unrest” that “prevailed on many college campuses in this country,” including “widespread civil disobedience” and “the seizure of buildings, vandalism, and arson,” leading some colleges to “shut down altogether, while at others files were looted and manuscripts destroyed.” Notwithstanding the “acknowledged need for order,” the Supreme Court explained that the First Amendment applied with no “less force on college campuses than in the community at large.” That obligation continues today.

...

“Some Thoughts and Advice for Our Students and All Students” (August 29, 2017)

<https://jmp.princeton.edu/announcements/some-thoughts-and-advice-our-students-and-all-students>

We are scholars and teachers at Princeton, Harvard, and Yale who have some thoughts to share and advice to offer students who are headed off to colleges around the country. Our advice can be distilled to three words:

Think for yourself.

Now, that might sound easy. But you will find—as you may have discovered already in high school—that thinking for yourself can be a challenge. It always demands self-discipline and these days can require courage.

In today’s climate, it’s all-too-easy to allow your views and outlook to be shaped by dominant opinion on your campus or in the broader academic culture. The danger any student—or faculty member—faces today is falling into the vice of conformism, yielding to groupthink.

At many colleges and universities what John Stuart Mill called “the tyranny of public opinion” does more than merely discourage students from dissenting from prevailing views on moral, political, and other types of questions. It leads them to suppose that dominant views are so obviously correct that only a bigot or a crank could question them.

Since no one wants to be, or be thought of as, a bigot or a crank, the easy, lazy way to proceed is simply by falling into line with campus orthodoxies.

Don’t do that. Think for yourself.

Thinking for yourself means questioning dominant ideas even when others insist on their being treated as unquestionable. It means deciding what one believes not by conforming to fashionable opinions, but by taking the trouble to learn and honestly consider the strongest arguments to be advanced on both or all sides of questions—including arguments for positions that others revile and want to stigmatize and against positions others seek to immunize from critical scrutiny.

The love of truth and the desire to attain it should motivate you to think for yourself. The central point of a college education is to seek truth and to learn the skills and acquire the virtues necessary to be a lifelong truth-seeker. Open-mindedness, critical thinking, and debate are essential to discovering the truth. Moreover, they are our best antidotes to bigotry.

Merriam-Webster’s first definition of the word “bigot” is a person “who is obstinately or intolerantly devoted to his or her own opinions and prejudices.” The only people who need fear open-minded inquiry and robust debate are the actual bigots, including those on campuses or in the broader society who seek to protect the hegemony of their opinions by claiming that to question those opinions is itself bigotry.

So don’t be tyrannized by public opinion. Don’t get trapped in an echo chamber. Whether you in the end reject or embrace a view, make sure you decide where you stand by critically assessing the arguments for the competing positions.

Think for yourself.

Good luck to you in college!

[Signatures omitted]

APPENDIX 2B.

STATEMENTS BY UNIVERSITY LEADERS AND ACADEMIC ASSOCIATIONS ON ACADEMIC FREEDOM, FREEDOM OF SPEECH, AND DISRUPTION

Lee Bollinger, President, Columbia University, October 6, 2006

<http://www.columbia.edu/cu/president/docs/communications/2006-2007/061006-freedom-of-speech.html>

Columbia University has always been, and will always be, a place where students and faculty engage directly with important public issues. We are justifiably proud of the traditions here of intellectual inquiry and vigorous debate. The disruption on Wednesday night that resulted in the termination of an event organized by the Columbia College Republicans in Lerner Hall represents, in my judgment, one of the most serious breaches of academic faith that can occur in a university such as ours.

Of course, the University is thoroughly investigating the incident, and it is critically important not to prejudge the outcome of that inquiry with respect to individuals. But, as we made clear in our University statements on both Wednesday night and Thursday, we must speak out to deplore a disruption that threatens the central principle to which we are institutionally dedicated, namely to respect the rights of others to express their views.

This is not complicated: Students and faculty have rights to invite speakers to the campus. Others have rights to hear them. Those who wish to protest have rights to do so. No one, however, shall have the right or the power to use the cover of protest to silence speakers. This is a sacrosanct and inviolable principle.

It is unacceptable to seek to deprive another person of his or her right of expression through actions such as taking a stage and interrupting the speech. We rightly have a visceral rejection of this behavior, because we all sense how easy it is to slide from our collective commitment to the hard work of intellectual confrontation to the easy path of physical brutishness. When the latter happens, we know instinctively we are all threatened.

We have extensive University policies governing the actions of members of this community with respect to free speech and the conduct of campus events. Administrators began identifying those involved in the incident as it transpired and continue to investigate specific violations of University policies to ensure full accountability by those found to be responsible.

University personnel are also evaluating event management practices that are specifically intended to help event organizers, participants and protestors maintain a safe environment in which to engage in meaningful and sometimes contentious debate across the spectrum of academic and political issues. These are some of the many steps we intend to take in the weeks ahead to address this matter in our community.

Let me reaffirm: In a society committed to free speech, there will inevitably be times when speakers use words that anger, provoke, and even cause pain. Then, more than ever, we are called on to maintain our courage to confront bad words with better words. That is the hallmark of a university and of our democratic society. It is also one of our central safeguards against the impulses of intolerance that always threaten to engulf our commitment to proper respect for every person.

Michael Drake, Chancellor, University of California at Irvine, February 9, 2010

<http://regents.universityofcalifornia.edu/regmeet/mar10/blattachments.pdf>

Last night, Michael Oren, Israeli ambassador to the U.S., shared his perspectives on American-Israeli relations in a free public lecture in the UC Irvine Student Center. During his talk, several members of the audience stood and shouted – one at a time, repeatedly – in an effort to disrupt his message.

This behavior is intolerable. Freedom of speech is among the most fundamental, and among the most cherished of the bedrock values our nation is built upon. A great university depends on the free exchange of ideas. This is non-negotiable. Those who attempt to suppress the rights of others violate core principles that are the foundation of any learning community. We cannot and do not allow such behavior.

Eleven individuals were arrested as a result of their actions last night and are being processed accordingly. Additionally, the Office of Student Conduct has initiated the Student Judiciary Review process to address issues under their jurisdiction.

I am very pleased that the ambassador stayed on and was able to complete his speech. This university is, and always will be, committed to the expression of all ideas and viewpoints.

Mark G. Yudof, President, University of California, February 18, 2010

<http://regents.universityofcalifornia.edu/regmeet/mar10/blattachments.pdf>

As president of the University and as a scholar of the First Amendment, I have always taken great pride in the richness and variety of voices on our campuses. A university is a special place for the exchange of views and ideas, and it is critical that our policies be conducive to a spirited intellectual life. It is also important that members of the university community conduct themselves with civility and with tolerance for the diverse groups that make up our campuses. Two recent events, one on-campus and one off-campus, violate those policies and deserve the strongest possible condemnation.

When a small group of students at UC Irvine attempted to shout down Israeli Ambassador Michael Oren, they were not engaging, as some have claimed, in “free speech.” Quite the opposite. The constitution does not protect the right to suppress the speech of others. Chancellor Michael Drake issued a strong statement condemning the students’ behavior. In addition to being arrested, the students will face campus disciplinary processes. It is ironic that the same

students whose speech rights Chancellor Drake protected, despite the incendiary nature of many of the views expressed, apparently don't think that those who have a different point of view have the freedom to express themselves on campus. So that members of the UC community can constructively and respectfully air their differences, Chancellor Drake has also instituted a series of discussions. I fully support Chancellor Drake's actions.

I was also deeply distressed by an off-campus racist event involving a small group of UCSD students this past weekend mocking the commemoration of Black History Month. This behavior is offensive not only to the African-American community, but to all who are dedicated to the principles of diversity and civility that must prevail on any campus. Chancellor Mary Anne Fox condemned the incident in the strongest terms and has also instituted campus disciplinary proceedings. Chancellor Fox has also scheduled a teach-in to be held next week so that members of the UCSD community may learn from the incident. As university officials noted, "The remedy for dangerous, offensive or extreme speech is more speech, not less." I fully support Chancellor Fox and endorse the efforts of all who are working to heal the wounds caused by these two incidents.

Mark G. Yudof, President, University of California, Open Letter, March 8, 2012

<http://ucnet.universityofcalifornia.edu/news/2012/3/open-letter-to-uc-community-from-president-yudof.html>

I write today to address, once again, the moral and ethical imperative for all of our University of California students, faculty and staff members to foster a climate of tolerance, civility and open-mindedness. I am prompted to do so because of a number of recent incidents that undermine this imperative.

University campuses are proper venues for collisions of ideas and viewpoints. Conflicting viewpoints not only are inevitable but also healthy in this context.

What is not acceptable are acts meant to disrupt the speech of others. What is not acceptable are hate-driven physical and, yes, verbal attacks on any group or individual that are meant to silence or intimidate those who would express differing opinions.

It was wrong for hecklers to disrupt speakers on the UC Davis campus at an event entitled "Israeli Soldiers Speak Out." It was reprehensible that one of these hecklers accused the speakers of being associated with rapists and murderers. Under the direction of Chancellor Katehi, campus officials dealt appropriately with this individual, moving him out of the room and barring re-entry. But I want to make this clear: I condemn the actions of those who would disrupt this event. Attempting to shout down speakers is not protected speech. It is an action meant to deny others their right to free speech.

It was wrong for a vandal or vandals on the UC Riverside campus to deface the Israeli flag displayed by the Jewish student organization Hillel, scrawling the word "terrorists" across it. I applaud Chancellor White for his rapid and vigorous condemnation of this cowardly act. And I join him whole heartedly in that condemnation. The chancellor was right to assign campus police to investigate.

Two years ago, at UC San Diego, it was African Americans who were vilified by words and images that mocked their heritage and who felt threatened by the hanging of a noose. Around the same time, derogatory and profane words were spray-painted across the entrance to the

Lesbian Gay Bisexual Transgender Resource Center at UC Davis. Likewise, swastikas scrawled on campus walls or doors have made Jewish students feel unsafe.

Since then, among other initiatives, the system's central office has worked with the campuses and various groups, including students, to revise policies on student conduct; the new provisions strengthen prohibitions on threatening conduct and acts motivated by bias, including religious bias. We also are working with the Museum of Tolerance and the Anti-Defamation League to improve campus climate for all students and to take full advantage of our marvelous diversity.

Still, despite diligent efforts, we cannot say — and, realistically, never will be able to say — that hateful incidents won't occur in a community made up of 235,000 students and 185,000 employees. There inevitably will be speakers or forums that present ideas others will view as hateful and abhorrent. Hateful incidents will not be tolerated and I stand ready to condemn them whenever and wherever they occur, as should all members of the UC community.

As for incendiary speakers, we cannot as a society allow what we regard as vile speech to lead us to abandon the cherished value of free speech. But the same Constitution that permits some public figures to engage in hateful commentary also protects my right and duty — and your right and duty — to condemn these merchants of hatred when they come into our community. Again, the best remedy for bad speech is to surround it with good speech.

Finally, it is important that we keep our eyes on the prize. What we collectively are trying to preserve is a vibrant and vocal university community that is not afraid to explore or even argue about ideas, that is not afraid to make stands on controversial issues, that is not afraid of discourse, but one that embraces the ethic of doing so in a spirit of respect and civility.

With our Chancellors, I remain committed to the principle of balancing protection of free speech and promoting strategies to foster an environment where all students, faculty, staff members and guests can feel safe and respected — no matter their individual characteristics or viewpoints.

Ralph C. Wilcox, Provost and Executive Vice President, University of South Florida, January 2015

Note to Faculty, January 2015 (text supplied by USF):

The University of South Florida is proud of its campus diversity and we have worked hard to create a climate that is both welcoming and inclusive. We encourage our students to think critically for themselves on local, national, and international topics, to develop informed and well-reasoned opinions, and to engage as global citizens. Furthermore, we strive to set a good example for how scholars with differing viewpoints can participate in fruitful discussions while remaining collegial and respectful of one another.

As some of you may know, the USF Student Senate recently supported a non-binding resolution calling for the USF Foundation to divest in selected companies. The resolution does not compel any action on the part of USF leadership. In fact, this is not a new matter. In 2014, the USF Foundation Board, guided by the law and the best interests of the university, listened, deliberated and stated its position in denying the request.

With that said, the Student Senate's vote has raised concerns about the climate of inclusion and acceptance across campus, and prompts me to remind us all, once again, of our

fundamental values respecting free speech, diversity, and creating a safe and welcoming atmosphere for all.

USF is a public university where free speech and the collegial exchange of ideas, including the expression of differing opinions, is encouraged as a part of civil discourse. The rights of individuals and groups to voice their opinions on relevant topics, including social, environmental and political issues are respected, both as part of this exchange of ideas and as a part of the academic process. Indeed, the consideration of dissenting viewpoints is a hallmark of the academy. Yet, our first and most important responsibility is to create a safe and secure learning environment for our students, one in which such dialogue can flourish. As faculty members, our students look to us to sustain a climate of respect, tolerance, and trust on campus.

Moreover, there is absolutely no room at USF for threats and intimidation to the safety and security of our community. Whether such threats are explicit or perceived, we have a responsibility to protect the rights of those who feel threatened or intimidated. Collegiality and respect are expected of all members of the campus community at all times.

As an institution of higher learning USF is guided by, and will remain compliant with, federal, state, and local laws, the rules and regulations of the Florida Board of Governors and the USF Board of Trustees, as well as the USF Student Code of Conduct. I thank you for your continuing efforts in creating and sustaining a campus community where the values that undergird our great academic traditions can be upheld.

Ronald Daniels, President, and Robert C. Lieberman, Provost, Johns Hopkins University, September 11, 2015

<http://hub.jhu.edu/2015/09/11/johns-hopkins-statement-academic-freedom/>

Johns Hopkins University on Academic Freedom: Academic freedom is the wellspring of an open and free university.

Academic freedom protects the right to speak and create, to question and dissent, to participate in debate on and off campus, and to invite others to do the same, all without fear of restraint or penalty. It is designed to afford members of the community the broadest possible scope for unencumbered expression, investigation, analysis, and discourse. Indeed, among the measures of an academic community is its success in creating a culture of active discussion and debate, one where its members open themselves to the views of others, even when those views are provocative or unfamiliar.

Our university is committed to the steadfast protection of the right to academic freedom. This commitment emerges from the university's time-honored role in the creation of knowledge and the sifting and winnowing of ideas. Without full and vigorous protection of this principle, the university's capacity to discharge its hallowed mission would be compromised.

However, academic freedom is not unbounded. As with the First Amendment to the U.S. Constitution, on whose precepts it is based, academic freedom does not guarantee the right to defame or threaten, to deface or harass, or to incite violence or infringe on privacy. And reasonable and viewpoint-neutral rules for the time, place, and manner of expression are a legitimate way to ensure the orderly conduct of the university.

Further, academic freedom entails academic responsibility. There is no right to plagiarize or otherwise engage in academic or scientific misconduct. The exercise of judgment on the basis of professional criteria and the highest intellectual standards, in matters such as academic

quality and performance evaluations, is both permissible and necessary. Even so, limits such as these, essential to the functioning of the university, should be seen as narrow exceptions to the presumption of open and vigorous expression.

A professional and respectful exchange of views is integral to creating a positive environment for learning, teaching, and research. Each of us has a critical role to play in cultivating a climate of intellectual diversity, dignity, and respect. But academic freedom necessarily permits the expression of views that even the vast majority of the community may find misguided, ignorant, or offensive. The appropriate response to such statements in an academic setting is not to censor or punish, but to challenge, criticize, and persuade.

Johns Hopkins continues to expand its connections to a range of partnerships with external entities. Some funding sources may seek to control data and research findings or to limit their dissemination. And the university's mission, its influence, and its presence reach far beyond the traditional campus, to countries and cultures and institutions that do not share the same understanding of free speech and academic freedom principles. In these situations, special care must be taken to maintain the university's core principles of free and independent inquiry.

Johns Hopkins was home to the early development of the concept of academic freedom in this country. The torch of free inquiry is a critical part of our heritage and our mission. Each of us, in our time as members of this community of scholars, bears a responsibility for nurturing its flame, and passing it on to those who will follow.

David Wippman, Dean, University of Minnesota Law School, November 4, 2015

https://www.law.umn.edu/sites/law.umn.edu/files/halbental_lecture_statement.pdf

Yesterday, the Law School hosted Professor Moshe Halbertal, a well-known, widely respected expert on ethics and the law of war, for the annual Dewey Lecture on law and philosophy. Unfortunately, the start of Professor Halbertal's lecture was delayed for over 30 minutes by protesters shouting slogans and denouncing the Law School for inviting a speaker whose views they chose to caricature but not to hear. While it is regrettable that the protesters (none, I believe, from the Law School) chose to deny themselves the opportunity to engage and learn from a speaker of Halbertal's distinction, it is unacceptable that they should seek to deny other students and community members their own opportunity to hear an invited guest speak. Values of free speech and academic freedom are central to the University's mission; we disregard them at our peril.

The protesters were eventually removed from the building by campus police, who handled the situation with great professionalism and restraint. After the lecture concluded, audience members, including some quite critical of Israel, had an opportunity to ask questions and engage Professor Halbertal in discussion. Ironically, the central theme of Professor Halbertal's talk was that the military should be prepared to accept greater risks to its own forces in order to enhance protections for civilian non-combatants, not something one would expect to generate much protest.

But whether a speaker's views are controversial is beside the point. As members of a University community, we should welcome—indeed, insist—on hearing a wide range of viewpoints, and we should condemn any efforts to silence free speech through protests of the sort that took place at the Law School yesterday. The Law School will continue to do both.

**Randy L. Diehl, Dean, College of Liberal Arts, University of Texas at Austin,
November 13, 2015**

<https://liberalarts.utexas.edu/news/statement-from-dean-randy-l-diehl-regarding-nov-13-on-campus-incident>

Amidst the current controversy concerning the disruption of an academic lecture sponsored by the Institute for Israel Studies, I want to reiterate my deep admiration for the work of Professor Ami Pedahzur and the Institute for Israel Studies in conducting courses and public programming that represent the highest standard of academic discourse and dispassionate reasoning and research on a controversial subject of enormous importance. Students and faculty of every background, including Palestinians and Israelis alike, have enthusiastically received Prof. Pedahzur's courses and his supervision of undergraduate and graduate research.

Although reviews are still ongoing, I wish to emphasize that there are places on campus for responsibly discussing disagreements. Disruption of a visiting scholar's invited academic lecture violates principles of academic freedom and free speech that are crucial to our mission as a great university."

University of Chicago, Free Speech on Campus: A Report from the University Faculty Committee, November 2015

Geoffrey R. Stone, Edward H. Levi Distinguished Service Professor of Law, Chair

<https://provost.uchicago.edu/sites/default/files/documents/reports/FOECommitteeReport.pdf>

From its very founding, the University of Chicago has dedicated itself to the preservation and celebration of the freedom of expression as an essential element of the University's culture. In 1902, in his address marking the University's decennial, President William Rainey Harper declared that "the principle of complete freedom of speech on all subjects has from the beginning been regarded as fundamental in the University of Chicago" and that "this principle can neither now nor at any future time be called in question."

Thirty years later, a student organization invited William Z. Foster, the Communist Party's candidate for President, to lecture on campus. This triggered a storm of protest from critics both on and off campus. To those who condemned the University for allowing the event, President Robert M. Hutchins responded that "our students . . . should have freedom to discuss any problem that presents itself." He insisted that the "cure" for ideas we oppose "lies through open discussion rather than through inhibition." On a later occasion, Hutchins added that "free inquiry is indispensable to the good life, that universities exist for the sake of such inquiry, [and] that without it they cease to be universities."

In 1968, at another time of great turmoil in universities, President Edward H. Levi, in his inaugural address, celebrated "those virtues which from the beginning and until now have characterized our institution." Central to the values of the University of Chicago, Levi explained, is a profound commitment to "freedom of inquiry." This freedom, he proclaimed, "is our inheritance."

More recently, President Hanna Holborn Gray observed that "education should not be intended to make people comfortable, it is meant to make them think. Universities should be expected to provide the conditions within which hard thought, and therefore strong disagreement, independent judgment, and the questioning of stubborn assumptions, can flourish in an environment of the greatest freedom."

The words of Harper, Hutchins, Levi, and Gray capture both the spirit and the promise of the University of Chicago. Because the University is committed to free and open inquiry in all matters, it guarantees all members of the University community the broadest possible latitude to speak, write, listen, challenge, and learn. Except insofar as limitations on that freedom are necessary to the functioning of the University, the University of Chicago fully respects and supports the freedom of all members of the University community “to discuss any problem that presents itself.”

Of course, the ideas of different members of the University community will often and quite naturally conflict. But it is not the proper role of the University to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive. Although the University greatly values civility, and although all members of the University community share in the responsibility for maintaining a climate of mutual respect, concerns about civility and mutual respect can never be used as a justification for closing off discussion of ideas, however offensive or disagreeable those ideas may be to some members of our community.

The freedom to debate and discuss the merits of competing ideas does not, of course, mean that individuals may say whatever they wish, wherever they wish. The University may restrict expression that violates the law, that falsely defames a specific individual, that constitutes a genuine threat or harassment, that unjustifiably invades substantial privacy or confidentiality interests, or that is otherwise directly incompatible with the functioning of the University. In addition, the University may reasonably regulate the time, place, and manner of expression to ensure that it does not disrupt the ordinary activities of the University. But these are narrow exceptions to the general principle of freedom of expression, and it is vitally important that these exceptions never be used in a manner that is inconsistent with the University’s commitment to a completely free and open discussion of ideas.

In a word, the University’s fundamental commitment is to the principle that debate or deliberation may not be suppressed because the ideas put forth are thought by some or even by most members of the University community to be offensive, unwise, immoral, or wrong-headed. It is for the individual members of the University community, not for the University as an institution, to make those judgments for themselves, and to act on those judgments not by seeking to suppress speech, but by openly and vigorously contesting the ideas that they oppose. Indeed, fostering the ability of members of the University community to engage in such debate and deliberation in an effective and responsible manner is an essential part of the University’s educational mission.

As a corollary to the University’s commitment to protect and promote free expression, members of the University community must also act in conformity with the principle of free expression. Although members of the University community are free to criticize and contest the views expressed on campus, and to criticize and contest speakers who are invited to express their views on campus, they may not obstruct or otherwise interfere with the freedom of others to express views they reject or even loathe. To this end, the University has a solemn responsibility not only to promote a lively and fearless freedom of debate and deliberation, but also to protect that freedom when others attempt to restrict it.

As Robert M. Hutchins observed, without a vibrant commitment to free and open inquiry, a university ceases to be a university. The University of Chicago’s long-standing commitment to this principle lies at the very core of our University’s greatness. That is our inheritance, and it is our promise to the future.

Gregory L. Fenves, President, University of Texas at Austin, March 9, 2016

<http://news.utexas.edu/2016/03/09/statement-on-university-review-of-nov-13-incident>

AUSTIN, Texas — The University of Texas at Austin’s executive vice president and provost has issued a final report regarding a Nov. 13, 2015 incident at which members of a Palestinian student group demonstrated during an academic event hosted by the university’s Institute for Israel Studies.

The provost accepts the finding of the university’s Office for Inclusion and Equity (OIE) that the university faculty member who organized the event and responded to the students’ demonstration did not violate the university’s Nondiscrimination Policy and did not engage in harassment of the student organization.

The state’s open records laws prevent the university from publicly releasing certain information from investigations where the claims alleged are ultimately found to be unsubstantiated. A summary of the university’s investigation is available upon request.

Below is a statement from UT Austin President Gregory L. Fenves:

Now that the provost has accepted the findings of the OIE report, I want to express my strong support for Professor Ami Pedahzur.

Over many years, Dr. Pedahzur has fostered open, responsible dialogue, often on contentious political issues, including those involving Israel. He is known for working in a constructive and proactive manner with people from across the political spectrum. Dr. Pedahzur hosts speakers representing a wide range of views to foster in-depth inquiry. His classes attract students from diverse backgrounds. I look forward to Dr. Pedahzur’s many future contributions in teaching, scholarship, and public service at UT.

Free discourse is vital to The University of Texas. As a university committed to knowledge and discovery, UT is steadfast in its support of inquiry and debate. Yet free speech also carries with it responsibility. The expression of free speech is not a license to drown out the speech of others, or to shout down ideas one disagrees with. As the University of Chicago states in its “Principles of Free Expression,” a university “has a solemn responsibility not only to promote a lively and fearless freedom of debate and deliberation, but also to protect that freedom when others attempt to restrict it.” In this spirit, I appreciate Professor Pedahzur’s work to foster debate and protect freedom of speech for all, including the diverse students he teaches and the visiting scholars he hosts on campus.

University of Chicago, Excerpt – “The Aims of Education,” by Geoffrey Stone, U. of Chicago, September 22, 2016

Reprinted with permission of Geoffrey Stone.

Why should a university take the position that faculty and students should be free to advance any and all ideas, however offensive, obnoxious, and wrong-headed they might be?

First, one thing we have learned from bitter experience is that even the ideas we hold to be most certain might in fact turn out to be wrong. As confident as we might be in our own wisdom, experience teaches that certainty is different from truth. If those who believed with absolute certainty that the earth was the center of the universe were wrong, if those who

believed with absolute certainty in creationism were wrong, if those who believed that slavery was natural, right, and proper were wrong, if those who believed that a woman's place is in the home were wrong, then why should we have the arrogance to think that we are unquestionably right about our own beliefs today? The only wise approach, as Justice Holmes made clear, is to acknowledge the risk that our certainties might be wrong as well, and that they too must always be open to challenge and question.

Second, experience teaches that the suppression of speech breeds the suppression of speech. If today I am permitted to silence those whose views I find distasteful, I have then opened the door to allow others down the road to silence me. The neutral principle of no suppression of ideas protects us all. This is especially important in the current situation, for in the long run it is likely to be minorities, whether religious minorities, racial minorities, or political minorities, who are most likely to be silenced once censorship is deemed acceptable. Censorship is never a one-way street, and this is a door we do not want to open.

Third, a central precept of free expression is the concern with chilling effect. That problem is especially acute today because of the effects of social media. It used to be the case that students and faculty members were willing to take controversial positions, in part because the risks were relatively modest. One could say something provocative or outrageous, and the statement soon disappeared from view. But in a world of social media, where every comment you make can be circulated to the world and can be called up later by prospective employers or graduate schools or neighbors with the mere click of a button, the potential cost of speaking courageously – of taking controversial positions, of taking risks – is greater than ever before in history. Indeed, according to a recent survey, 65% of all college students now say that it is “unsafe” for them to express unpopular views, and this clearly has had an effect on faculty as well. In this setting, it is especially important for universities to stand up for free expression.

So, how should this work in practice? Should students be allowed to express whatever views they want – however offensive they might be to others? Yes. Absolutely.

Should those who disagree and are offended by the views and speech of others be allowed to condemn those views and speakers in the most vehement terms? Yes. Absolutely.

Should students, faculty, and community members who oppose a speaker be permitted to disrupt an event in order to prevent that individual from speaking? Absolutely not.

Should those who are offended and who disagree be allowed to demand that the university punish those who have offended them? Yes. Absolutely.

Should the university punish those whose speech annoys, offends, and insults others? Absolutely not.

Should students, faculty members and community members who oppose a speaker disrupt an event in order to prevent that individual from speaking? Absolutely not.

Although non-disruptive protests are both permitted and encouraged, disruption of the rights of others to speak and to listen is wholly incompatible with the central principle of academic freedom.

Does this mean that the University may never restrict speech? No, as our committee noted in the University Statement on Free Expression, the University may restrict expression that violates the law, that falsely defames a specific individual, that constitutes a genuine threat or harassment, that unjustifiably invades substantial privacy or confidentiality interests, or that is otherwise directly incompatible with the core functioning of the University. But these are narrow exceptions to the general principle of freedom of expression, and it is vitally important

that these exceptions never be used in a manner that is inconsistent with the University's commitment to a completely free and open discussion of ideas.

What, though, should a university do? First, a university should educate its students and faculty about the importance of civility and mutual respect. As a member of the Class of '67 recently wrote to me, a university "has an obligation to create a community of people as well as 'a community of ideas,' a place where everyone feels certain that they are unambiguously welcomed." This is, indeed, a core institutional value, and it is one to which the University of Chicago is deeply committed. But it is a value that should be reinforced and reaffirmed by education and by example, not by censorship.

Second, a university should encourage free, open, and robust disagreement, argument, and debate. It should instill in its students and faculty the importance of winning the day by facts, by ideas, and by persuasion, rather than by force, disruption, or censorship. Indeed, for a university to fulfill its most fundamental mission, for a university to be a university, it must be a safe space for even the most loathsome, offensive, and disloyal arguments. As a former member of the Law School faculty, who just happens now to be President of the United States, observed in a recent commencement address: No matter "how much you might disagree" with a speaker, don't try "to shut them down. . . . Let them talk, but "have the confidence to challenge them." "If the other side has a point, learn from them. If they're wrong, rebut them. . . . Beat them on the battlefield of ideas. And you might as well start practicing now, because one thing I can guarantee you -- you will have to deal with ignorance, hatred, racism" and stupidity "at every stage of your life."

Third, a university must recognize that, our society being flawed as it is, the costs of free speech will often fall most heavily on those groups and individuals who feel the most marginalized, unwelcome, and disrespected. All of us feel that way sometimes, but in our often unjust society the individuals who most often bear the brunt of free speech – or at least of certain types of free speech – tend to be racial and ethnic minorities; religious minorities; women; gays, lesbians and transsexuals; immigrants; ideological dissidents; and the like. Universities must be sensitive to this reality. Even if they cannot "solve" this problem by censorship, they can and should take other steps to address the special challenges faced by groups and individuals who are most often made to feel unwelcome and undervalued by others.

Universities must take this challenge seriously. They should encourage civility and mutual respect. They should support students who feel vulnerable, marginalized, silenced, and demeaned. They should help those students learn how to speak up, how to respond effectively, how to challenge those whose attitudes, whose words, and whose beliefs offend, appall, and outrage them. This is a core responsibility of universities, for the world is not a safe space, and it is our job to enable our graduates to win the battles they will need to fight in the years and decades to come. This is not a challenge that universities can or should ignore...."

Janet Napolitano, President, University of California, “It’s time to free speech on campus again,” Boston Globe, September 30, 2016

<https://www.bostonglobe.com/opinion/2016/10/01/time-free-speech-campus-again/v5jDCzjuv710Mc92AhaAqL/story.html>

WHEN I WAS growing up, a favored comeback to perceived censorship was: “It’s a free country!” Whether this was spouted at a parent, a sibling, or an erstwhile friend, what it meant was people could speak their minds, that such freedom of speech was not only encouraged but guaranteed in the United States of America, so long as you didn’t yell, “Fire!” in a crowded theater.

Years later, the sanctity of free speech in our country is hardly guaranteed — at least not on our college campuses, where freedom of expression and the free flow of ideas should incubate discovery and learning. This is an irony that gives me pause even as I write this.

As president of the University of California system, I write to show how far we have moved from freedom of speech on campuses to freedom from speech. If it hurts, if it’s controversial, if it articulates an extreme point of view, then speech has become the new *bête noire* of the academy. Speakers are disinvited, faculty are vilified, and administrators like me are constantly asked to intervene.

In the 1960s, as exemplified by the Free Speech Movement at Berkeley, students on campuses demanded and received the ability to protest the Vietnam War. This was free speech, loud and angry and in your face. Today many of the loudest voices condemning speech and demanding protection are students on those same campuses. Listening to offensive, or merely opposing, views is subject to frequent criticism. What has happened, and what are we to do about it?

To thoughtfully answer these questions requires an examination of the history of free speech at our universities, the interplay with other social movements, and the values we profess to hold so dear. I begin, however, by agreeing with the sentiment expressed by Clark Kerr, the George Washington of the University of California:

“The University is not engaged in making ideas safe for students. It is engaged in making students safe for ideas. Thus it permits the freest expression of views before students, trusting to their good sense in passing judgment on those views. Only in this way can it best serve American democracy.”

Well said, President Kerr. But what does this ideal mean in today’s environment? First, a look back. The oldest versions of the university were institutions of indoctrination, whether by the church or by the state. Not until the potent combination of the Enlightenment with the revolution in natural science inquiry did the value of free speech in democratic societies surface.

Wrote Thomas Jefferson in 1820, a year after founding the University of Virginia, “This institution will be based on the illimitable freedom of the human mind. For here we are not afraid to follow the truth wherever it may lead, nor to tolerate any error so long as reason is left free to combat it.”

But freedom of speech has had a bumpy ride at American universities, echoing our country’s uneven interpretation of the First Amendment. In 1900, for example, Jane Stanford, the benefactor of Stanford University, forced the firing of a faculty member in large part because he supported labor unions. Not until the Berkeley Free Speech Movement of the mid-60s was

the principle established that the only limits on free speech should be those defined in the Constitution, at least as far as our nation's public universities were concerned. Has this concept now been turned on its head?

Not necessarily. "The times," to quote Bob Dylan, "are a-changin'." And so are our students — not to mention the challenges many have overcome just to gain admittance to a university. The University of California is the largest and best public research university in the country. In the 1960s, when the Free Speech Movement began, our student body was 55 percent male and overwhelmingly white. Today, 53 percent of UC students are women, 42 percent are the first in their families to attend college, and nearly 40 percent of this year's entering class identified themselves as either black, Latino/Latina, or a member of another historically underrepresented ethnic or racial group. Moreover, sexual identity was hardly on the radar in the 1960s. Today, students self-identify in myriad ways.

Students, therefore, come from a much broader range of backgrounds, and they often benefit from gathering with others of similar backgrounds to share experiences and support one another. At UC we have many different types of student centers and student activities; some of our newest are for undocumented students. You can call these "safe spaces," but I call them a good idea.

The more difficult issues arise when students seek to shout down speakers or attempt to prevent them from appearing at all. If one believes in the value of free speech and its place in the modern university, these types of actions are antithetical. I personally disagree with many of the sentiments expressed in the public spaces on our campuses. But the way to deal with extreme, unfounded speech is not with less speech — it is with more speech, informed by facts and persuasive argument. Educating students from an informed "more speech" approach as opposed to silencing an objectionable speaker should be one of academia's key roles. After all, these students will graduate into a country where objectionable speech is the current coin of the realm.

This does not mean that all speech is permissible. That which is designed to personally intimidate or harass falls outside First Amendment protections, as outlined by the Supreme Court. And remember that example of yelling "Fire!" in a crowded theater. These exceptions, however, should be narrowly construed because history teaches us that even narrowly drawn exceptions to free speech inevitably lead to broader limitations. Just read the Supreme Court's opinions in the early 20th century, and you'll know what I mean.

What about speech in the classroom? Do, or should, different standards apply? What about those so-called trigger warnings that have been so vilified by some in the (First Amendment-protected) press?

Here the academy must rely on its faculty. Given the broad range of life experiences our students bring to the university, our faculty have a professional responsibility to create an inclusive learning environment, as persuasively argued by Erwin Chemerinsky and Howard Gillman in an upcoming book about free speech on college campuses. If a professor tells students that a piece they are about to study explores the difficult topic of race, for example, that could be construed as a trigger warning. It also helps students appreciate what they are reading so as to bring their perspectives into even richer classroom discussion.

The key is to ensure that the faculty itself is enforcing professional standards guided by peer assessments of the quality of scholarship or teaching. Especially in the humanities and the

social sciences, the goal is to foster constructive engagement and to prepare students to listen, discuss, argue, and learn about topics that may be difficult for them personally.

I think of this kind of education as preparing students to be resilient, even in the face of speech that they feel undervalues them or diminishes their own experiences.

I object to the word “coddling.” I’m not especially fond of the letter recently sent by the dean of students at the University of Chicago that seemed to support free speech Darwinism. As stated earlier, even free speech has its limits: time, place, and manner restrictions, for instance. Chalking an anti-immigrant pro-Trump slogan on a sidewalk is one thing; spray painting it on a building is another.

The goal of our university education today should be to prepare students who are thoughtful, well-informed, and resilient. The world needs more critical, creative thinkers, and American higher education does a better job of producing them than any other higher education system in the world. We seek to make the world a better place for the next generation, and teaching the values and responsibilities of free speech is inextricably linked with this goal.

I prefer a campus that is loud to one that is quiet. I prefer a classroom where students feel included and are encouraged to bring different perspectives to the fore. I want a faculty that enforces its own professional standards among its peers. These are the three lode stars that should guide our efforts. These are the values I will embrace when particular episodes are brought before me. Consider this my own trigger warning. Just sayin’.

Peter Salovey, President, Yale University, “Yale Believes in Free Speech—and So Do I,”
The Wall Street Journal, Oct. 17, 2016

<http://www.wsj.com/articles/yale-believes-in-free-speechand-so-do-i-1476745961>

Excerpt:

“The United States is struggling culturally and politically with questions of race and ethnicity, as it has through its entire history. It should be no surprise that these matters are surfacing on college and university campuses, as they did in the past.

This time around, campus presidents have come under heavy pressure to take sides in a conflict that many have characterized as a war between the principles of inclusion and free expression. One side seems to think that we cannot make communities more inclusive unless we are willing to constrain or discourage the expression of offensive views. As the other side sees it, we cannot sustain an absolute commitment to free expression if we make inclusion an essential aspect of our mission.

This narrative of conflict rests on a false dichotomy, and a dangerous one at that. I believe we can uphold free expression and make our campuses more inclusive places. I also think it is critical that we do so.

At Yale, we adhere to exceptionally strong principles of free expression. These were set forth originally in the Woodward Report of 1974, which was Yale’s signal contribution to earlier debates over free expression, and which has served as a model at many other universities. Yale does not censor invited speakers, nor does the administration discipline faculty members or students for the expression of ideas, no matter how unpopular. The answer to speech one finds offensive is more speech.

We also prize an inclusive community. Last year, when racial matters again became national issues, incidents took place on many campuses that catalyzed student activism. Some of our students were determined to communicate to us their own experiences—at Yale. We took the time to listen to what they had to say. Not only were they telling us some things we needed to hear, but we also knew we should be models of how to engage in difficult conversations without shutting down the people trying to speak.

We responded to student concerns, denying some requests while announcing measures to address others. We had been considering most of these measures for some time, including a previously announced initiative to promote faculty diversity and excellence. Student concerns reinforced and confirmed some of our own judgments about specific steps we could take to make Yale a more inclusive community. I believed that in taking some of these steps, we were unquestionably doing the right thing for our university.

Those who worry that free speech is imperiled at Yale should take note of the facts. In the course of all the events and discussions of the past year, the Yale administration did not criticize, discipline or dismiss a single member of its faculty, staff or student body for expressing an opinion. Nor have we allowed any member of the community to disrupt or otherwise prevent a scheduled speaker from having his or her say. No invitation to any speaker has been withdrawn as the result of concerns about viewpoint or potential disruption.

A commitment to free speech does not mean that one has to think all speech is equally valuable, respectful or helpful to the educational mission. Last year many campuses, including our own, saw difficult confrontations and moments in which individuals demonstrated poor judgment about where and how to speak.

The promotion of free expression does not mean all speakers will express themselves in wise or civil ways. In a volatile world with social media and cameras on every phone, emotional moments can be taken out of context and magnified, distorting or obscuring an accurate view of events. With rare exceptions, our community conducted itself thoughtfully and respectfully through many weeks of intense discussion.

Far from discouraging free speech, events at Yale last year triggered a rich and remarkable set of conversations and debates across our student organizations, classrooms and open campus forums. The Yale Daily News, the oldest daily student newspaper in the country, filled its pages and opinion columns with voices that diverged in every conceivable way. Faculty have spoken to all aspects of the relevant events and issues, as have alumni and staff. I cannot remember a greater display of free expression since I arrived at Yale as a graduate student in 1981.

Our nation has not come to the end of its challenges with the terrible legacies of slavery and discrimination in all its forms. Inclusion and equality are works in progress, both for Yale and for the rest of our exceptional country. I deeply believe that free expression advances that work, as it always has, the more of it the better.”

Laurie Patton, President, Middlebury College, March 23, 2017 (in response to the disruption of a speech being given on campus by Dr. Charles Murray)

<http://www.middlebury.edu/newsroom/archive/2017-news/node/546382>

Excerpt:

A 21st century education must embrace an uncompromising commitment both to free speech and to open dialogue that creates a more inclusive public sphere. Free speech must be defended on all sides, and only through this principle will we achieve the work of making society more inclusive.

Middlebury has continued with its vibrant hum of classes, sports and artistic events, and outside lectures. We are also hard at work on nourishing the sense of community on our campus that has been under strain these past few weeks. I know you appreciate the importance of that work.

Drew Faust, President, Harvard University, May 25, 2017

<https://www.harvard.edu/president/speech/2017/2017-commencement-speech>

Excerpt:

So first: Why is free speech so important to and at universities? This is a question I took up with the newly arrived first-year students in the College when I welcomed them at Convocation last fall. For centuries, I told them, universities have been environments in which knowledge has been discovered, collected, studied, debated, expanded, changed, and advanced through the power of rational argument and exchange. We pursue truth unrelentingly, but we must never be so complacent as to believe we have unerringly attained it. Veritas is inspiration and aspiration. We assume there is always more to know and discover so we open ourselves to challenge and change. We must always be ready to be wrong, so being part of a university community requires courage and humility. Universities must be places open to the kind of debate that can change ideas and committed to standards of reason and evidence that form the bases for evaluating them.

Silencing ideas or basking in intellectual orthodoxy independent of facts and evidence impedes our access to new and better ideas, and it inhibits a full and considered rejection of bad ones. From at least the time of Galileo, we can see how repressing seemingly heretical ideas has blinded societies and nations to the enhanced knowledge and understanding on which progress depend. Far more recently, we can see here at Harvard how our inattentiveness to the power and appeal of conservative voices left much of our community astonished — blindsided by the outcome of last fall's election. We must work to ensure that universities do not become bubbles isolated from the concerns and discourse of the society that surrounds them.

Universities must model a commitment to the notion that truth cannot simply be claimed, but must be established — established through reasoned argument, assessment, and even sometimes uncomfortable challenges that provide the foundation for truth. The legitimacy of universities' claim to be sources and validators of fact depends on our willingness to actively and vigorously defend those facts. And we must remember that limiting some speech opens the dangerous possibility that the speech that is ultimately censored may be our own. If some

words are to be treated as equivalent to physical violence and silenced or even prosecuted, who is to decide which words? Freedom of expression, as Justice Oliver Wendell Holmes famously said long ago, protects not only free thought for those who agree with us but freedom for the thought we hate. We need to hear those hateful ideas so our society is fully equipped to oppose and defeat them.

Michael A. McRobbie, President, Indiana University, July 18, 2018

<https://freespeech.iu.edu/statements/index.html>

As Indiana University continues to engage locally, nationally and internationally, we welcome and value the diverse population of students, faculty and staff who join our community to live and work on our campuses across the state. The rich abundance of cultures, traditions, perspectives and beliefs contributed by our diverse university community is a source of strength and pride.

In Indiana University's nearly 200 years of fulfilling our mission of excellence in education, our university has served as a place for members of its community to better understand the ideas, assertions, arguments, customs, traditions and beliefs of others.

We are also an institution committed to fostering civil discourse and creating a safe, welcoming and inclusive environment for people of all backgrounds. As a public institution of higher education, we are bound by the First Amendment of the United States Constitution and our university's unwavering mission to provide an excellent education and remain committed to academic freedom.

Indiana University is dedicated to evaluating new ideas, fostering meaningful debate and openly addressing the very real problems that confront the people of our state, country and world. As a leading international university, IU can be a model of how a free and open exchange of ideas within our diverse community can allow for robust discussions and debates that lead to the creation of new knowledge and understanding and promote progress.

Within our culture of respect for each member of our university community, we must support a climate where the ideas and opinions -- even if those ideas and opinions seem in conflict with our values of diversity, equality and inclusion -- can be expressed, debated and protested openly.

In this spirit of promoting educational excellence through the free expression of ideas, Indiana University remains steadfastly committed to its academic mission, its values of equality, nondiscrimination, and inclusion, and the rights protected by the First Amendment of the U.S. Constitution.

Endorsed by Elizabeth Sayrs, Interim Executive Vice President and Provost, Approved by M. Duane Nellis, President, Ohio University, July 26, 2018

https://www.thefire.org/fire_speech-codes/ohio-u-free-expression

Excerpt:

Freedom of expression is the foundation of an Ohio university education. Open debate and deliberation, the critique of beliefs and theories, and uncensored academic inquiry are all essential to our shared mission of discovery and dissemination of knowledge.

...

At times, our community members will encounter arguments and perspectives with which they disagree, or worse, that are repugnant and offensive. Some such expressions may be condemned as “hate speech.” Although those views are deeply at odds with the values of Ohio university, courts have held that such speech generally is protected by the First Amendment and cannot be punished or regulated based on its content. (see “Forms, References and History” k.) More importantly, our community is stronger when such views are openly probed, contested, and rebutted.

Ohio university does not shield its community from speech on the basis that it is uncomfortable, wrong, or offensive. Rather, Ohio university seeks to prepare each student to engage thoughtfully and passionately with all ideas, even with disagreeable views.

Michael K. Young, President, Texas A&M University, January 22, 2019

<https://president.tamu.edu/messages/free-speech-recognition.html>

This month, we were very pleased to see that the Foundation for Individual Rights in Education (FIRE) awarded Texas A&M its highest rating for free speech, making ours one of only 45 universities nationwide — and the only in Texas — to achieve such a designation. FIRE’s “green light” status means the organization has determined our written policies fully align with the First Amendment.

While Texas A&M’s policies have always been strong, it is critical that we continue to affirm our commitment to free speech. An open exchange of ideas is not only a cornerstone of our democracy, it is the surest path to truth, discovery and scholarly advancement. I would especially like to thank our vice president for student affairs, Dr. Daniel Pugh, for his leadership in this effort.

We appreciate FIRE’s evaluation and validation of what we’re doing here in Aggieland. FIRE reviews an institution’s openness to speech and assembly on various campuses, and has found our principles and policies to be entirely consistent with the highest ideals of the First Amendment and the fundamental purposes and goals of a great education.

It’s a delight for Texas A&M to host the tens of thousands of programs, events and meetings each year on our campus. Occasionally, there’s a provocative speaker that detracts from the conversation but even those moments provide learning and engagement opportunities for our students, faculty and staff.

Our efforts in this area will continue to inform our work of educating students so they can engage in difficult dialogues, express their ideas without fear, and be prepared to lead in the future, both in their professional and personal lives.

Robert Brown, President, Boston University, February 12, 2019

<https://www.bu.edu/president/free-speech-on-campus/>

Excerpt:

Freedom of expression is a foundational guiding principle for an enduring democracy; it is both a check on power and a means to foster robust discourse. The Supreme Court has written that this freedom is “the matrix, the indispensable condition, of nearly every other form

of freedom.” American higher education has benefitted profoundly from strong constitutional protections that have provided our campuses with unmatched scope for intellectual inquiry and an environment where ideas can be tested and sharpened in an atmosphere of serious but collegial debate.

In times in which there are deep divisions in society, the commitment to free expression is tested. As we observe events both on campuses and in the broader society, I believe it is reasonable to suggest we are in such a time. Today, universities across the country confront the challenge of maintaining a commitment to freedom of expression and inquiry while working to provide an inclusive and nondiscriminatory learning and living environment for all students, as well as a welcoming and supportive environment for faculty and staff.

Jim Murdaugh, President, Tallahassee Community College, April 12, 2019

<https://blogs.tcc.fl.edu/president/free-expression-at-tcc/>

Excerpt:

As an institution of higher education, free and open debate in a public forum is part of our DNA. The forum that higher education provides to raise difficult and contentious questions of public concern in civil debate is a tradition going back centuries.

At TCC, we have the privilege of welcoming students from all walks of life to our campus each year where they enter a learning environment that purposefully exposes them to new ideas, challenges their preconceived notions and expands their perspective. This allows them to grow both intellectually and personally. We aren’t just granting degrees and credentials, we are preparing our students to be citizens.

That’s why I support a continued emphasis on freedom of speech at colleges and universities from our local, state and federal leaders, and why I am writing to Governor Ron DeSantis today to express my appreciation of his support on this issue.

It is critically important that we continue to “provide a learning environment where divergent ideas, opinions and philosophies, new and old, can be rigorously debated and critically evaluated.” This process develops in our students the intellectual skills necessary to respectfully argue through civil discourse.

Executive Vice Chancellor and Provost Robert A. Blouin, Vice Chancellor for Finance and Operations Jonathan Pruitt, Interim Vice Chancellor for Student Affairs Jonathan Sauls, University of North Carolina at Chapel Hill, August 14, 2019

<https://www.unc.edu/posts/2019/08/14/message-from-university-leaders-on-free-speech/>

Excerpt:

As we start another academic year and welcome new and returning students, faculty and staff to Carolina, we want to remind everyone about the important role that free speech plays on our campus.

Carolina is committed to fostering an environment where intellectual engagement flourishes. The free exchange of ideas is what makes ours a vibrant academic community, and we will continue our longstanding traditions of protecting free speech.

First Amendment, N.C. Law & UNC System Policy

As a public university, Carolina embraces the First Amendment to the U.S. Constitution and upholds the North Carolina Restore and Preserve Free Speech Act and the UNC System Board of Governors' policy on free speech and free expression, both enacted in 2017.

At Carolina, like all public universities, you will have the opportunity to hear from a wide range of speakers expressing many different viewpoints. Speakers may be invited by a school, department or student organization, among others. Citizens may rent University facilities for events. In some cases, the University can set reasonable time, place and manner restrictions on speech, but those regulations must be content neutral. Under the First Amendment, the University cannot prohibit a person from speaking on campus because our community does not agree with what that person has to say or because the speech is offensive to most people. Upholding the law does not mean the University endorses or approves such speech in any way.

Michael M. Crow, President, Arizona State University, November 20, 2019

<https://president.asu.edu/statements/statement-from-asu-president-michael-m-crow-on-free-speech-civil-discourse-and-student>

Excerpt:

ASU is committed to free, robust and uninhibited sharing of ideas among all members of the university community and we strive to provide an environment that fosters the fullest degree of intellectual freedom and free expression. The university does not condone actions by individuals or groups to prevent others from exercising their First Amendment rights and will take appropriate actions against those who do. This includes, per our Student Code of Conduct, conduct that is endangering, threatening or causing physical harm to any member of the university community or to oneself, causing reasonable apprehension of such harm or engaging in conduct or communications that a reasonable person would interpret as a serious expression of intent to harm; initiating, causing or contributing to any false report; and failing to comply with directions of university officials or agents, including law enforcement or security officers. Standards for professional conduct for faculty members and academic professionals to preserve intellectual freedom are outlined in policy here.

I am proud that ASU has been noted as an exemplar when it comes to our commitment to free speech. Since 2011, ASU has received the “green light” rating from the Foundation for Individual Rights in Education indicating ASU policies “do not seriously imperil speech.” The green light rating is the highest from FIRE and ASU is currently one of only 38 institutions in the country to earn it. In June 2019, ASU was also cited by the Heterodox Academy as one of 10 institutions in the U.S. that is “seriously committed to civil and diverse debate.”

The university does have expectations that our community will exercise their right to free speech in a nonthreatening manner. As noted in 2018 when ASU adopted the Chicago Statement of Freedom of Expression:

“The freedom to debate and discuss the merits of competing ideas does not, of course, mean that individuals may say whatever they wish, wherever they wish. The university may restrict expression that violates the law, that falsely defames a specific individual, that constitutes a genuine threat or harassment, that unjustifiably invades substantial privacy or confidentiality interests, or that is

otherwise directly incompatible with the functioning of the university. In addition, the university may reasonably regulate the time, place, and manner of expression to ensure that it does not disrupt the ordinary activities of the university.”

Ronald A. Crutcher, Office of the President, University of Richmond, December, 2019
<https://president.richmond.edu/initiatives/free-expression/recommended-statement-free-expression.pdf>

Excerpt:

Institutional Mission

The University of Richmond is committed to the production and dissemination of knowledge through open inquiry and “the promotion of a vibrant intellectual community that encourages thoughtful disagreement and the vigorous exchange of ideas.” The University believes that “respectful engagement with a broad diversity of perspectives and experiences [is] essential to intellectual growth,” and that members of the University community can build understanding and empathy by engaging with different points of view. The University’s commitment to fostering a diverse, inclusive community demands an equally strong commitment to freedom of expression. The ability to speak freely, debate vigorously, and engage deeply with differing viewpoints is essential to the University’s mission of advancing knowledge and preparing students to flourish in a complex world. Freedom of expression enables the University community—students, faculty, and staff—to express their deeply held convictions, opinions, ideas, and matters of conscience and engage in vigorous debate, criticism, and counter-speech.

Rights of Free Expression

The University promotes and protects the freedom of expression for all members of its community. At the University of Richmond, speech may not be suppressed, nor speakers disinvited, simply because the ideas put forth are thought by some or even by most members of the University community to be unwelcome, untrue, immoral, or deeply offensive. The University recognizes that on occasion some members of the community may deeply disagree with the speech of others, or may view the expression of certain ideas as harmful. On these occasions, it is for the members of the University community to respond by openly and vigorously contesting the ideas that they oppose, not by seeking to suppress speech. The broad protection of freedom of expression is particularly necessary for marginalized speakers and messages, both of which frequently have been the target of censorship efforts.

**Kristin Sobolik, Interim Chancellor and Provost, University of Missouri–St. Louis,
February 12, 2020**

<https://www.umsl.edu/chancellor/about/messages/sobolik/2020/20200212.html>

Excerpt:

Former Supreme Court Justice Louis Brandeis offered one of the greatest defenses of free speech in history, writing in his opinion in *Whitney v. California*: “If there be time to expose through discussion the falsehood and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence.”

We celebrate the diverse and inclusive environment we’ve created at UMSL, and that must include diversity of background, experiences and thought. There might be views you or others find offensive, but that does not mean those views can or should be censored or prohibited. The First Amendment to the Constitution establishes freedom of expression as a founding principle of the United States, and it’s all the more imperative at an institution of higher education because of its central role in the promotion of learning, research and engagement.

**Antonin Scalia Law School at George Mason University, August 2020,
Statement of Faculty Principles**

https://www.law.gmu.edu/about/commitment_to_open_dialogue/

In light of the current state of dialogue and debate in this country, the faculty of the Antonin Scalia Law School hereby reaffirms our commitment to freedom of inquiry and freedom of speech for all members of our community.

Starting some years ago, many schools have promulgated official speech codes that seek to prevent students from expressing unpopular opinions. Thanks largely to the efforts of Scalia Law faculty, George Mason University as a whole has earned the highest rating for freedom of speech from the Foundation for Individual Rights in Education. We are proud of that accomplishment.

Recently, it has become far too common for colleges and universities to impose sanctions on faculty members whose research or public statements do not conform to the reigning climate of approved opinion. As pressures for conformity increase throughout our society, it is even becoming dangerous to show insufficient enthusiasm for certain causes and beliefs.

This faculty has always rejected the imposition of any political or ideological orthodoxy by us or on us. We recognize no hierarchy of authority in the world of ideas. Professors and students each have exactly the same right to express their opinions, to challenge views with which they disagree, and to participate as they see fit in the public life of the nation. They also have the same moral obligation to foster an atmosphere of civility and tolerance. The faculty strongly opposes efforts—whether from within our community or from outside—to pressure us or the school’s administration to engage in the repression of unpopular opinions, whether we as individuals agree or disagree with those opinions.

In the classroom, of course, there is necessarily an inequality between the instructor and the students. We think it is self-evident that professors should not use their authority in the service of political or ideological indoctrination. We also think it is self-evident that professors should

not belittle or intimidate students who express views with which the instructor disagrees, or encourage students to belittle or intimidate their classmates.

Conversely, students should recognize that professors exercise a special authority in the classroom because they have special responsibilities and obligations. The faculty as a whole establishes the curriculum. Individual professors decide what will be studied in their courses, what topics will be discussed in class, and what questions will be dealt with in the limited time that is available. Students are welcome to express their own opinions about these matters, but the professors are responsible for the decisions, and they have an obligation to exercise their own judgment in making those decisions.

Students should also recognize that professors are not doing them a service when they treat our educational mission as a popularity contest. Several years ago, President Hanna Holborn Gray of the University of Chicago made the following observation:

Education should not be intended to make people comfortable, it is meant to make them think. Universities should be expected to provide the conditions within which hard thought, and therefore strong disagreement, independent judgment, and the questioning of stubborn assumptions, can flourish in an environment of the greatest freedom.

President Gray's statement has important applications throughout any university, but her words are especially relevant to law schools. Effective legal training requires that students be challenged—by their instructors and by their classmates—to make well-reasoned arguments, often about topics that are controversial or personally painful. Lawyers are frequently compelled to grapple with issues that they would really prefer not to think about at all. Nobody enjoys having the shortcomings of their own arguments exposed, or being forced to acknowledge that serious arguments can be made in support of conclusions with which they strongly disagree. These experiences are not by any means the only components of legal education, but professors who focus on sparing their students from unpleasant disagreements are actually cheating them.

This faculty aspires to provide our students with a genuine education. We will therefore maintain our commitment to respectful debate and the full and open exchange of ideas. That commitment extends to our classrooms, to our scholarship, and to any other public discussions in which we choose to participate. As Daniel D. Polsby put it several years ago, when he was our Dean, "There has to be a place in the world where controversial ideas and points of view are aired out and given space. This is that place."

**Approved by Daniel M. White, Chancellor, University of Alaska, Fairbanks,
January 19, 2021**

https://uaf.edu/chancellor/files/policies/04-06-300_Policy-Campus-Assembly.pdf

Excerpt:

The University of Alaska Fairbanks is committed to academic freedom, freedom of speech, petition and assembly. These are fundamental to the democratic process, and fundamental to the academic mission of the university.

UAF makes clear that these freedoms are to be exercised in a manner that protects the rights of all members of the campus community. UAF reserves the right to determine the time, place and manner of assembly or presentation in order to assure the continuation and quality of

the educational process, the protection of property, and the health and safety of our campus community.

...

University of Alaska Fairbanks defines time, place and manner restrictions as limitations on when, where and in what manner expressive rights can be exercised, which are congruent with the right to freedom of expression provided that the limitations are justified without reference to the content of the regulated speech; that they serve a significant governmental interest; and that, in so doing, they leave open ample alternative channels for communication of the information. For all people, including students and community members, public freedom of speech and freedom of assembly are protected by the U.S. and the Alaska State Constitution. However, people cannot interfere with the regular operations of educational institutions and may need to accommodate the nature or space in which they assemble, including exterior space. This includes instances in which the particular space has been reserved for an event or programmatic purpose. If, for instance, any assembly is overly loud, blocks passage across campus, or threatens physical health or safety of others, then the institution may need to change the location or more directly address the disruptive aspects of the assembly.

Nancy Brickhouse, Provost, Baylor University, January 27, 2021

<https://baylorldariat.com/2021/01/27/the-importance-of-civil-discourse/>

Excerpt:

As part of our Christian mission, the glue that binds us together as a diverse community, and which keeps us strong, is the commitment to treating one another with dignity and respect. Baylor respects and values an academic environment in which faculty members can freely express their views. To be sure, the protection of free speech by individual faculty members is vital. In this particular instance, the faculty member is not being investigated and will not be punished in any manner for sharing her opinions on her personal Twitter account because it did not violate any University policies. To my mind, the Lariat's coverage, in implying that this faculty member merited such punitive measures, has likely had a negative impact on the character of discourse at Baylor.

There are many issues on which we, as individuals, will differ. We may encounter views and opinions that we personally disagree with or even find offensive. When this happens, we must seek to interact with one another in a spirit of Christian fellowship and learn from one another through civilly discussing and exploring our areas of disagreement. We may not always find common ground, but we will avoid the unhealthy consequences of succumbing to the temptations of attacking and lashing out at perceived enemies.

American Association of University Professors, 1940 Statement of Principles on Academic Freedom and Tenure

<https://www.aaup.org/report/1940-statement-principles-academic-freedom-and-tenure>

Excerpt:

The purpose of this statement is to promote public understanding and support of academic freedom and tenure and agreement upon procedures to ensure them in colleges and universities. Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher or the institution as a whole.² The common good depends upon the free search for truth and its free exposition.

Academic freedom is essential to these purposes and applies to both teaching and research. Freedom in research is fundamental to the advancement of truth. Academic freedom in its teaching aspect is fundamental for the protection of the rights of the teacher in teaching and of the student to freedom in learning. It carries with it duties correlative with rights.³

Tenure is a means to certain ends; specifically: (1) freedom of teaching and research and of extramural activities, and (2) a sufficient degree of economic security to make the profession attractive to men and women of ability. Freedom and economic security, hence, tenure, are indispensable to the success of an institution in fulfilling its obligations to its students and to society.

Academic Freedom

1. Teachers are entitled to full freedom in research and in the publication of the results, subject to the adequate performance of their other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.
2. Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject.⁴ Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment.⁵
3. College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.⁶

American Council of Trustees and Alumni, March 2017:

<https://www.goacta.org/wp-content/uploads/ee/download/Campus-Free-Speech.pdf>

Education is the engine that drives human progress, and academic freedom is the principle that enables and sustains education. Without academic freedom, colleges and universities can become places of stale ideological conformity and indoctrination, rather than places of discovery and intellectual advancement.

For college and university faculty, academic freedom provides the opportunity to conduct research, to explore ideas and test hypotheses, and to gain perspective from colleagues, without the fear of obstacles or censure that comes from the bias of others. Professors enjoying academic freedom will not be silenced or sanctioned for challenging the prevailing opinions and beliefs of their profession. Their teaching and research can be shaped by their search for truth, not the winds of political fashion. For students, academic freedom gives them exposure to competing ideas and the space to express and debate viewpoints without fear that their grades will be lowered in reprisal or that their institutions will harass or punish them.

As the seminal report on this topic, issued in 1974 under the direction of Yale's Pulitzer Prize-winning historian C. Vann Woodward, stated:

The history of intellectual growth and discovery clearly demonstrates the need for unfettered freedom, the right to think the unthinkable, discuss the unmentionable, and challenge the unchallengeable. To curtail free expression strikes twice at intellectual freedom, for whoever deprives another of the right to state unpopular views necessarily also deprives others of the right to listen to those views. . . .

Above all, every member of the university has an obligation to permit free expression in the university. No member has a right to prevent such expression. Every official of the university, moreover, has a special obligation to foster free expression and to ensure that it is not obstructed.¹

The concept of academic freedom can be extended from individuals to the institution as a whole. In 1967, in the midst of the Vietnam War, a time of intense political discord, the University of Chicago's Kalven Committee declared that it would be antithetical to the mission of an institution of higher education for the university as a corporate body to take political positions.

There is no mechanism by which [the university] can reach a collective position without inhibiting that full freedom of dissent on which it thrives. It cannot insist that all of its members favor a given view of social policy . . . Our basic conviction is that a great university can perform greatly for the betterment of society. It should not, therefore, permit itself to be diverted from its mission into playing the role of a second-rate political force or influence.²

Freedom of speech and academic freedom naturally go hand in hand. The opportunity to learn and to explore is predicated upon the ability to share ideas and opinions in the open, to debate and to challenge them. Lawrence Summers expressed a crucial distinction in academic policy that he made during his time as president of Harvard University: "While the University's obligations to protect its students from discrimination was absolute, its obligation to protect them from the discomfort of being offended was close to nonexistent."³

Lynn Pasquerella, President, Association of American Colleges and Universities, April 2017
<https://www.aacu.org/sites/default/files/files/about/FreeExpression2017.pdf>

Excerpt:

Liberal education is grounded in a commitment to intellectual diversity and protection against the suppression of unpopular viewpoints as a means of guarding against political indoctrination. Insofar as colleges and universities are sites for encountering divergent perspectives, assessing conflicting ideas, evaluating competing claims of truth, creating new knowledge, and

upholding intellectual integrity, a liberal education is designed to develop students' capacities to think critically and to make themselves vulnerable to criticism by welcoming dissenting voices. When preparing students for the future, faculty members should offer curricula that include a diversity of intellectual perspectives appropriate to their disciplines, and they must also be aware of the extent to which their positionality, framing of issues, and syllabi, together with written policies, campus cultures, and comments by other members of the community, can serve as inhibitors of speech.

To prepare the next generation of informed citizens who will shape our democracy, colleges and universities must remain free from entrenched and intellectually rigid forms of political partisanship and engage students from across the political spectrum. In fact, the honest and genuine pursuit of truth, at the core of a liberal education, mandates tolerance for ambiguity and respect for those bearing radically different perspectives. As members of college and university communities come together and appeal to their institutional values in guiding the determination of whether speech is protected, a commitment to respect for others, free inquiry, and inclusivity must be paramount in maintaining an environment in which the free exchange of ideas can thrive.

Peter Wood, President, National Association of Scholars, January 13, 2018

<https://www.nas.org/reports/the-architecture-of-intellectual-freedom/full-report>

First Amendment Freedom. The First Amendment to the U.S. Constitution guarantees freedom of speech and freedom of the press, among other freedoms. Centuries of litigation have established a well-developed body of First Amendment law that protects Americans from government interference with their right to self-expression in most circumstances. First Amendment rights are much broader than the academic freedom doctrine. Academic freedom is a context-specific idea with limited legal basis outside contract law. The First Amendment is pervasive in situations where the individual deals with governmental authority. In public colleges and universities, which are operated by the state, college administrators are effectively government authorities, which means that First Amendment considerations can enter into situations where academic freedom is also at issue.

Other freedoms. Intellectual freedom in the context of higher education, as suggested above, entails a combination of more particular freedoms:

the freedom to ask questions; the freedom to challenge assumptions and doctrines; the freedom to criticize; the freedom to speculate; the freedom to reexamine old evidence and to search for new evidence; the freedom to express what one has found; the freedom to hear others who seek to express what they have found; the freedom to engage in dialogue with informed peers; the freedom to read and consider the views of people who lived before one's own time; the freedom to teach what one has, by diligent effort, learned; and even the freedom to refrain from speaking.

Association of American Universities, April 18, 2018

<https://www.aau.edu/newsroom/press-releases/aau-presidents-and-chancellors-reaffirm-commitment-free-speech-campus>

The free and open exchange of ideas and information is fundamental to the educational mission of AAU universities. The robust discussions and debates that occur at research universities have been central to the advancement of democracy, the creation of new knowledge, the fostering of educational excellence, and the promotion of social progress. As heads of these institutions we are unequivocally committed to preserving and honoring this proud heritage.

While we may deem some speech to be odious, disgraceful, and antithetical to our values, our campuses are and should remain places where ideas can be expressed free of disruption, intimidation, and violence.

We are committed to preparing our students, faculty, and staff to engage in thoughtful, non-disruptive debate. Our collective responsibility to educate our campus communities on their rights and responsibilities is of the utmost importance and one we embrace. While protecting the expression of ideas, we will also take all steps necessary to promote an inclusive and non-discriminatory learning environment, and protect our communities from those who seek to promote conflict rather than conversation, debate, and advocacy.

We will continue to prepare students, faculty, and staff to engage in frank, open, and often challenging discussions. Our universities will also work to ensure that campus policies on speech, events, dissent, and other protected activities are publicly and conveniently available. We believe these actions are critical for our institutions to remain at the forefront of ensuring that substantive and non-violent speech is fully protected and welcomed in our society.

In restating these values, we aspire to be a model for society of how a free and democratic people should work through disagreements and arrive at a deeper understanding of important issues and of each other.

APPENDIX III:

AEN RESPONSES TO CAMPUS ANTISEMITISM AND THE ACADEMIC BOYCOTT OF ISRAEL

APPENDIX 3A.

AEN LEADERSHIP | SELECT OPINION-EDITORIALS

Since AEN's founding in 2015, its leadership team has authored numerous op-eds on topics of concern to its mission and work on campus. Below, we feature excerpts from a select set of essays authored by AEN's current leadership team.

Miriam F. Elman “BDS ‘Anti-Normalization Is a Mockery of Progressive Values,” *The Algemeiner*, July 1, 2019.

<https://www.algemeiner.com/2019/07/01/bds-anti-normalization-is-a-mockery-of-progressive-values/>

Anti-Israel BDS (Boycott, Divestment, and Sanctions) promoters have long tried to stake out the moral high ground — depicting themselves as the champions of the oppressed, and positioning their movement as being on the right side of history. But the reality is that BDS rarely acknowledges, or works to prevent, harm to Palestinians that is meted out by their own governments and societal extremists...It's important to appreciate that BDS leaders demand that the PA silence and severely reprimand any Palestinian willing to “normalize” relations with Israelis...By now it should be obvious that BDS isn't pro-human rights or pro-social justice. It's a fundamentally intolerant movement that seeks to delegitimize Israel's very existence, traffics in antisemitic tropes, and demoralizes Zionist Jews while also suppressing Palestinians who sincerely want peace. Basically, BDS negates everything that the anti-racist left is supposed to stand for. So, progressives who support it are essentially betraying their principles.

Kenneth Waltzer and Miriam F. Elman, “How Cal faculty who support Israel boycott get it wrong,” *J Weekly: The Jewish News of Northern California*, March 4, 2019.

<https://www.jweekly.com/2019/03/04/how-cal-faculty-who-support-israel-boycott-get-it-wrong/>

Should faculty have the academic freedom to deny academic freedom to others?... Like many BDS advocates, these faculty believe that the academic boycott targets only institutions, not individuals — a daft argument that assumes it's possible to boycott universities without affecting the people who work and study in them. But in fact, we know that academics in Israel are already being negatively impacted. In some disciplines, Israeli faculty are reporting that they're finding it harder to get published and are starting to complain that they can't get their graduate students funded. American graduate students tell us that they steer clear of enrolling in such politicized fields...the BDS movement itself is a prime example of outside influence on the campus, with off-campus national organizations like the US Campaign for Palestinian Rights, American Muslims for Palestine, Jewish Voice for Peace and Palestine Legal directing and organizing on-campus anti-Israel campaigns.

Miriam F. Elman, “All Politics Is Local: How Off-Campus Anti-Israel Activists Impact Campus BDS,” *The Algemeiner*, January 21, 2019.

<https://www.algemeiner.com/2019/01/21/all-politics-is-local-how-off-campus-anti-israel-activists-impact-campus-bds/>

What’s been happening at GSU [Georgia State University] is a good example of how BDS student groups can often forge close-knit relationships with local anti-Israel organizations to create a hostile campus climate for Jews. Yet, despite their ubiquity, these local off-campus/on-campus bonds and associations are among the most understudied aspects of campus anti-Israel activism... it’s still the case that on-campus groups are the main instigators of Israel-related speech disruptions on campus. More concerning is how these off-campus groups can shape and shove the discourse about Israel on nearby colleges and universities, and help mount viciously anti-Israel campaigns — in some cases, like at Georgia State University, year after year. When it comes to BDS, the common saying is often accurate: “all politics is local.”

Kenneth Waltzer and Mark G. Yudof, “Israel and Academic Freedom: An Exchange,” *The New York Review of Books*, January 8, 2019.

<https://www.nybooks.com/daily/2019/01/08/israel-and-academic-freedom-an-exchange/>

No president or board of regents anywhere in America has embraced the boycott of Israel... There is virtually no example of an anti-Israel speaker being silenced by protesters. Criticized, yes, but not silenced. From UCLA to Texas to Minnesota to NYU and many other universities, censorship has occurred by those opposed to Israel, including the repeated disruption of speakers and meetings, as well as accompanying efforts to isolate Jewish students and groups. Silencing and shunning are entries in the BDS playbook. Not so for those opposed to the boycott... Palestinian and Arab students are not barred from studying in Israel, and universities with substantial study abroad programs in Israel have never had Palestinian or Muslim students barred. Indeed, during the Arab Spring, students studying Arabic in Cairo were evacuated to continue studying at Hebrew University in Israel... the primary opponents of democratic engagement and dialogue on these difficult issues belong to the BDS movement, whose members have used their prerogatives and power to shut down discussion, demonize Israel and American Jewish supporters of Israel, and politicize university classrooms.

Kenneth Waltzer and Mark G. Yudof, “Barring Students From Study in Israel,” *Inside Higher Ed*, October 25, 2018.

<https://www.insidehighered.com/views/2018/10/25/stopping-students-studying-israel-hinders-understanding-complexities-middle-east>

We believe in international exchange and robust conversation about difficult issues. We oppose efforts to challenge the legitimacy of the State of Israel, including the boycott movement, because they hold Israel to a double standard not applied to other nations, they stand emphatically against academic freedom and they often shun Jewish organizations and sponsor actions on campuses disrupting the speech of those they perceive as pro-Israel... Faculty professionalism requires consideration of student merit as the guiding criterion in when and how to write letters of recommendation... And we believe the Ministry of Strategic Affairs [of Israel], contrary to its early assurances, is engaged in an exclusionary policy that simply makes more difficult the work we do toward mobilizing American faculty to reject the views of those who seek to delegitimize the Jewish and democratic Israeli state.

Raeefa Shams, “Faculty Initiatives on Israel Help to Shift the Campus Climate,” *Jewish Journal*, August 8, 2018.

<https://jewishjournal.com/commentary/opinion/236975/faculty-initiatives-israel-help-shift-campus-climate/>

Unlike undergraduate students, who generally experience campus life for only four or five years, faculty have institutional knowledge, ties to administrators and other stakeholders, and, in many cases, academic expertise in relevant fields. Faculty can mentor pro-Israel students, advise on strategy and tactics and develop innovative educational programming. They can help students become more effective advocates, and shift perceptions of Israel through education, research, and dialogue. The knowledge, experience, and general role of faculty give them the unique ability to positively impact the campus climate in the longer term, beyond the momentary drama created by a divestment vote in student government or a hostile speaker invited by a pro-BDS group.

Kenneth Waltzer (with Mark G. Yudof), “Antisemitisms of the Left and Right,” *The Times of Israel*, October 21, 2017.

<https://blogs.timesofisrael.com/antisemitisms-of-the-left-and-right-with-mark-g-yudof/>

The antisemitism of the Far Left is the hatred of self-proclaimed anti-racists who nonetheless believe in a rigidly dogmatic anti-Israelism. It is about the intersection of anti-Zionism and antisemitism, and especially about distaste in the global Left for the Jewish state. The antisemitism of the Far Right is more like the older racial anti-Semitism. These forms of hatred share a distinctive eagerness to put the Jew at the center of what is wrong with the world in the present. Yet they differ significantly and demand responses attuned to the differences... Leaders in the Boycott Divestment and Sanctions movement (BDS) acknowledge that a single Palestinian state is their true goal. The idea of a two state solution lacks justice, most think, because it involves having to accept a Jewish state. Left antisemitism also excuses attacks on European and American Jews and their institutions because Jews everywhere are supporters of Israel. They are inductees in Israel’s cause...The challenge we face dealing with the Far Left antisemites on campus is to openly identify and point out their hateful tendencies when they cross the line from anti-Zionism to anti-Semitism.

Miriam F. Elman, “The Pressure on American Academics to Conform to BDS,” *Haaretz*, September 7, 2016.

<https://www.haaretz.com/opinion/the-pressure-on-american-academics-to-conform-to-bds-1.5438296>

...administrators need to recognize that just because their schools are on record opposing academic boycotts of Israel doesn’t mean that individual faculty members are adhering to that institutional policy in their personal instructional practices. Administrators must make school policy crystal clear, but they also have to institute mechanisms to ensure that faculty members comply with it...The now multiplying anti-BDS organizations operating on campus are going to have to figure out a way to incentivize more faculty to engage proactively – and get those feeling cowed by BDS harassment to go public...To put a stop to stealth boycotting on campus and prevent more Israeli scholars from being privately shut out of academia, Zionists from across the political spectrum – left, center, and right – will need to fight together to ensure that all their voices can be heard on campus.

Miriam F. Elman, “Anti-Israel boycott prevents peace, assaults Jewish identity (Commentary),” *Syracuse Post Standard*, November 21, 2016.

https://www.syracuse.com/opinion/2016/11/anti-israel_boycott_prevents_peace_assaults_jewish_identity_commentary.html

BDS is often presented as a nonviolent social justice movement. But the movement’s origins and tactics tell a more sinister story...But BDS isn’t only anti-Israel. It also harms Palestinians. It’s insensitive to the fact that boycotts of Israeli companies rob Palestinians of their livelihoods. And by holding Israel responsible for Palestinian suffering, BDS diverts attention from their mistreatment by despotic Arab governments.

In my experience, many who gravitate to BDS are caring people who harbor no ill-will toward Jews. But there can be no denying that BDS has mainstreamed anti-Semitism...The BDS binary of Israelis as evil oppressors and the Palestinians as blameless victims prevents an honest debate about the conflict, and how it can be resolved. But no matter how impoverished its message, Americans have a free speech right to advocate for it.

Mark G. Yudof, “Anti-Semitism and junk Constitutional law,” *The Times of Israel*, April 1, 2016.

<https://blogs.timesofisrael.com/anti-semitism-and-junk-constitutional-law/>

My favorite weird principle, never accepted by any court, is that criticism of a speaker should be viewed as an effort to silence the speaker. The first-to-speak idea privileges the first speaker over everyone else. Hence if UC regents criticize anti-Semitic speech, they are guilty of intimidating and attempting to silence the anti-Semites...The second junk theory is that demonstrators have a right to shut down a speaker with whom they disagree...So the logic is that preventing speech is itself protected speech.

Mark G. Yudof and Kenneth Waltzer, “U.C. principles give needed protection to Jewish students,”

J Weekly: The Jewish News of Northern California, April 1, 2016.

<https://www.jweekly.com/2016/04/01/opinions-u-c-principles-give-needed-protection-to-jewish-students/>

Incidents of anti-Semitic graffiti, calls for an intifada in America, the cross-examination of Jewish students putting themselves up for student government offices, and blood libels uttered in the heat of student debates over boycott, divestment and sanctions movement resolutions have been widely reported. But this is not merely a California phenomenon; it is national...The U.C. Principles Against Intolerance seeks creatively to address this situation. It calls attention to anti-Semitic narratives in an effort to educate the campus communities about anti-Semitism. The statement is largely aspirational and does not include provisions for enforcement or for disciplining faculty, staff or students. The document instead takes the high ground of insisting that university leaders exert moral leadership and eschew either coercion or censorship. It honors freedom of expression even when such expression is abhorrent, prejudiced or distasteful...the resolution does not criticize all forms of anti-Zionism, only those forms that are tainted with an anti-Semitic narrative or that include anti-Semitic claims or tropes. That is sufficient for most purposes. But isn’t it odd that of all the groups in the world that have sought national self-determination, only the Jewish people and the Jewish state come in for this type of treatment on university campuses?

Mark G. Yudof and Kenneth Waltzer, “Majoring in Anti-Semitism at Vassar,” *Wall Street Journal*,

February 17, 2016.

<https://www.wsj.com/articles/majoring-in-anti-semitism-at-vassar-1455751940>

Anti-Israel sentiment mixed with age-old anti-Semitism has reached a fever pitch at Vassar College. It is time that faculty and administrators take a stand against this toxic brew on behalf of academic values.

Mark G. Yudof, “BDS and Campus Politics: A Bad Romance,” *Inside Higher Ed*, December 14, 2015.
<https://www.insidehighered.com/views/2015/12/14/colleges-should-commit-robust-debate-about-middle-east-conflicts-essay>

In age of exquisite sensitivity on some campuses to microaggression, or language that subtly offends underrepresented groups, the ironic toleration of microaggression against Jews often goes unnoted... The fact is that, despite the hallowed traditions of academic freedom and freedom of inquiry, many campuses today are hostile to genuine conversation and debate. Freedom of expression is viewed by a vocal minority as a ploy to preserve privilege. There is a fear of listening to those with whom one disagrees. Campuses are viewed as “safe” only if they are ideologically pure... While nations like China, Iran, Russia, Syria and others get a pass on campuses, Israel is the sole object of BDS. There are many displaced peoples around the globe, many conflicts and many settler nations. The double standard for Israel yields suspicion about the real agenda... At bottom, BDS is a challenge to the legitimacy of the state of Israel and not just its policies; it is a disestablishment movement... American colleges and universities should affirm their commitment to robust debate and discussion of public issues and to the human capacity to reason and to educate and to address the perplexities of the human condition, including the longstanding conflicts in the Middle East. Campuses should never be “safe” from ideas and disagreement. They should be safe from ideological constraints on what may be expressed.

AEN’s National Advisory Board is composed of prominent leaders in academia who are committed to advancing AEN’s mission. A number of them also speak and write on AEN’s issues. Below, we share excerpts from a select set of opinion-editorials authored or co-authored by our current Board members:

Ethan B. Katz and Deborah Lipstadt, “Far more unites Black and Jewish Americans than divides them,” *CNN*, July 18, 2020.

<https://www.cnn.com/2020/07/18/opinions/black-celebrities-anti-semitism-anti-racism-katz-lipstadt/index.html>

Beyond their common enemies, Blacks and Jews have vital commonalities in their history. Each group defines itself, in part, by remembering a communal experience of being considered “other” over many centuries. Though they are far from identical, their respective group histories play a similar role. Each remains the site of a searing and defining collective experience that feels ever-present... What some Jews may forget is that they, more than virtually any other group, are well equipped to understand the moniker of Black Lives Matter... In this light, in particular, it behooves Jews to appreciate that, while all lives matter, historically and currently not all lives have been or are under threat. At the same time, it behooves the Black community to address the anti-Semitism in its midst... For some time now, there has been a widespread perception that as a movement, not an ideal, Black Lives Matter is not a welcoming space for Jews... Without wishing to compare the challenges of our daily lives to those of African Americans, Jews need their Black fellow citizens, and particularly supporters of the Black Lives Matter movement, to be willing to listen as well to the experiences and community narratives of Jews. By the same token, Blacks have a right to expect more Jews to get off the sidelines and lean into both their own distinctive history and vulnerability on the one hand, and their relative privilege on the other, to become stalwarts once again in the fight for racial justice.

Deborah Lipstadt, “Jews Are Going Underground,” *The Atlantic*, December 29, 2019.

<https://www.theatlantic.com/ideas/archive/2019/12/after-monsey-will-jews-go-underground/604219/>

Most Jewish students on American campuses have not been subjected to overt acts of discrimination or verbal abuse. But many among them feel they have something to lose if they openly identify as Jews. If they are active in Hillel, the Jewish student organization, they may be informally barred from being active in progressive causes—for example, racial and LGBTQ equality, climate-change mitigation, and the fight against sexual assault. Those who want to be elected to student government are learning to scrub their résumés clean of any overtly Jewish or pro-Israel activities. They are not abandoning their Jewish identity; they are hiding it. They have become Marranos.

Jesse M. Fried and Steven Davidoff Solomon, “BDS hides behind free speech to dodge accountability,” *Washington Times*, August 20, 2019.

<https://www.washingtontimes.com/news/2019/aug/20/bds-hides-behind-free-speech-dodge-accountability/>

The boycott flies in the face of important academic principles, such as freedom and neutrality. It was immediately criticized by the distinguished 62-member Association of American Universities. And its exclusive focus on the Jewish state smacks of anti-Semitism. The ASA has never boycotted any other country, either before or since... The D.C. Superior Court will now decide whether to grant defendants’ Anti-SLAPP motion and dismiss the case. The Court should reject the BDS supporters’ effort to use free speech as a shield, and recognize their alleged behavior for exactly what it is: the takeover and manipulation of a non-profit corporation to advance their pet political agenda at members’ expense. Free speech is important, but it should not be used as an excuse for hijacking and plundering an academic association.

Stephen Joel Trachtenberg, “SA [Student Association] must reject pro-Palestinian divestment resolution,” *The GW Hatchet*, April 10, 2018.

<https://www.gwhatchet.com/2018/04/10/former-university-president-sa-must-reject-pro-palestinian-divestment-resolution/>

When a resolution is focused singularly on alleged abuses in the Palestinian territories, while explicitly overlooking those occurring elsewhere, its true objective is not to advance human rights and self-determination around the world, but to target Israel – and Israel alone – for condemnation. This tactic is discriminatory and does not serve the values that GW upholds...The multiple “Whereas” clauses in the resolution are also reflective of a problematic tendency to paint a simplistic picture of a “powerful” Israeli state – supported by faceless corporations – oppressing innocent Palestinians. This narrative ignores the history and present-day reality of a complex geopolitical conflict, and does nothing to contribute to peace and reconciliation. Indeed, the BDS movement has always been more concerned with demonizing Israel rather than seeking solutions that lessen the suffering of the people in the region...GW, like all academic institutions, should be a place of academic inquiry, respectful dialogue and a shared sense of community, not one-sided resolutions which exacerbate divisions.

Jeffrey R. Brown, “Why Gies College of Business engages with the world,” *The Daily Illini*, March 4, 2018.

<https://dailyillini.com/opinions/your-opinions/2018/03/04/letter-editor-gies-college-business-engages-world/>

Our students come from many nations, multiple faiths, diverse families and varied political ideologies. I explain that among our jobs as educators is to make them intellectually uncomfortable while maintaining respect for each individual. It is these principles that lead our college to engage with many countries, including

Israel, even while others on campus promote a movement that calls for boycotts and divestment...I respect those who are concerned about the longstanding political, military, religious and cultural conflicts in the region. As a University that values free expression, we should welcome debate over these issues. But we should not deny our community the opportunity to learn about these issues firsthand by visiting Israel, by engaging with companies that do business with or in Israel or by welcoming Israeli guests to our campus. Whatever the stated motivation for a Boycott, Divestment, Sanctions movement, the effect of it — limiting opportunities for engagement — is, in my view, antithetical to the core values of a great public university.”

Lawrence H. Summers, “Colleges have become hypersensitive to racial prejudice. Why not antisemitism?” *The Washington Post*, March 31, 2016.

<https://www.washingtonpost.com/news/wonk/wp/2016/03/31/larry-summers-colleges-have-become-hypersensitive-to-racial-prejudice-why-not-anti-semitism/>

It has seemed to me that a vast double standard regarding what constitutes prejudice exists on American college campuses. There is hypersensitivity to prejudice against most minority groups but what might be called hyper-insensitivity to anti-Semitism...with very few exceptions, university leaders who are so quick to stand up against microaggressions against other groups remain silent in the face of anti-Semitism. Indeed, many major American universities, including Harvard, remain institutional members of associations that are engaged in boycotts of Israel. The idea of divesting Israel is opposed only in the same way that divesting apartheid South Africa was opposed — as an inappropriate intrusion into politics, not as immoral or anti-Semitic.

APPENDIX 3B.

AEN LETTERS TO UNIVERSITY LEADERS

AEN frequently provides guidance on recommended actions to senior university leaders in response to on-campus incidents involving the delegitimization of Israel, antisemitism, and/or violations of freedom of speech and academic freedom. It also sends letters of support and encouragement to university leaders who have made constructive statements in response to such incidents. The following are a small selection of actions and statements that AEN has recommended and supported in recent years. Letters from prior years may be found on AEN's website: <https://academicengagement.org/aen-statements-and-letters>.

JANUARY 2021: UNIVERSITY OF CALIFORNIA, MERCED

After a professor of Engineering at the University of California, Merced, was found to have been the owner of a Twitter account¹ containing antisemitic language and imagery, UC Merced Chancellor Juan Sánchez Muñoz released a strong statement emphasizing that the “opinions presented in this Twitter account do not represent UC Merced or the University of California,” and that “they were abhorrent and repugnant to us and to many of our colleagues and neighbors...[and] harmful to our university, our students, and our years of work to build an inclusive and welcoming community.”²

In response, AEN sent a letter to Chancellor Muñoz, thanking him for his forceful statement. In particular, AEN commended his reference to the Principles Against Intolerance established by the UC Board of Regents in 2016, and mentioned, as a positive example, “UC Irvine has done admirable work in recent years to integrate and implement the Principles into university policy and practice and to improve the experiences of Jewish students on campus...” AEN further recommended its own Improving the Campus Climate Initiative (ICCI) as a resource for the delivery of “specialized training in antisemitism awareness,” in response to the Chancellor’s decision to direct UC Merced’s “Office of the Associate Chancellor for Equity, Diversity and Inclusion to develop programming for the spring semester that addresses free speech, hate speech and anti-Semitism in academia and promotes ways to challenge discriminatory insinuations when and wherever they emerge within the university community.”³

1 Gabriel Greschler, “UC Merced opens inquiry into professor’s antisemitic tweets,” *J. Weekly*, December 29, 2020 at <https://www.jweekly.com/2020/12/29/uc-merced-opens-inquiry-into-professors-antisemitic-tweets/>

2 University of California, Merced, Office of the Chancellor, “Regarding Social Media Posts,” December 29, 2020 at <https://chancellor.ucmerced.edu/content/regarding-social-media-posts>

3 Academic Engagement Network, “Letter to UC Merced Chancellor Juan Sánchez Muñoz,” January 4, 2021 at <https://academicengagement.org/wp-content/uploads/2021/01/AEN-Letter-to-the-Chancellor-UC-Merced-1.4.2021.pdf>

NOVEMBER 2020: CORNELL UNIVERSITY

In November 2020, AEN wrote a letter of concern to Cornell University President Martha Pollack about a troubling guest lecture hosted by Cornell's College of Architecture, Art, and Planning: "We are troubled by the rhetoric and materials disseminated during this online event. Based on documentation provided by those who attended (including a Cornell faculty member who is a member of our organization) and the guest speaker's own social media posts, the lecture involved hateful rhetoric and imagery. The speaker's remarks and the visual material shared in her presentation unequivocally crossed the line from legitimate criticism of Israel and Zionism into a dangerous form of antisemitism.

"Specifically, the guest speaker dehumanized Jewish immigrants and pioneers of modern-day Israel by purposely "blackening out" photographs of "Jewish" soldiers, politicians and other Jewish people in iconic images from the pre-1948 period. Appallingly, in justifying this erasure of Jewish bodies, the lecturer reportedly stated during her talk that 'I can't bear to look at them.' We hope that the Cornell University faculty member who organized this talk will reach out to the Executive Director of Cornell's Hillel and to other colleagues in order to better understand why Jewish audience members and others were so alarmed by this presentation, finding it offensive and painful."⁴

JUNE 2020: FLORIDA STATE UNIVERSITY

In the summer of 2020, the newly elected President of the Florida State University (FSU) Student Senate faced criticism, and calls to step down, due to offensive antisemitism materials he had posted online. In response, AEN wrote a letter to FSU President John Thrasher, expressing disappointment that he had not also recommended that the student resign his position. In AEN's view, the "Student Senate should be working to create an inclusive and welcoming learning community for all" and, thus, "it is difficult to see how the majority of Jewish students at FSU, and certainly those who identify with the State of Israel, can feel themselves well-represented, much less respected, with [this student] as President of the student governing body." AEN further emphasized that "Antisemitic and other prejudiced expression is constitutionally protected speech so long as there is not an immediate threat to safety. But the fact that our jurisprudence allows for such freedom of expression does not mean that this speech does not inflict injury to those so malevolently attacked. It is for this reason that we believe that [this student] is unfit to lead the Student Senate."

In addition, AEN recommended several constructive actions that FSU could implement to further a more diverse and inclusive campus environment, including "[funding] high-profile campus speaker events that will present students with diverse views about Israel and the Israeli-Palestinian conflict," "[hiring] new faculty who can ensure pluralism in the campus curriculum about Israel and the Israeli-Palestinian conflict," and "[developing] and [implementing] an antisemitism awareness training program for university staff and students, including leaders in the Student Senate."⁵

4 Academic Engagement Network, "Letter to Cornell University President Martha Pollack," November 24, 2020 at <https://academicengagement.org/wp-content/uploads/2021/01/AEN-Letter-to-Martha-E.-Pollack-Cornell-11.24.20.pdf>

5 Academic Engagement Network, "Letter to FSU President John Thrasher," June 26, 2020 at <https://academicengagement.org/wp-content/uploads/2020/10/AEN-Letter-to-FSU-President-Thrasher-6.26.20-1.pdf>

APRIL 2020: TUFTS UNIVERSITY

When Tufts University's Students for Justice in Palestine (SJP), an organization with a history of divisive behavior targeting Jewish and pro-Israel students, received a "Collaboration Award" from Tufts' Office for Campus Life, AEN sent a letter of concern to President Anthony Monaco, stating that the award "can only undermine your efforts to address hate and intolerance, to repair divisions among students that are already manifest, and to signal to Jewish and pro-Israel students that they are valued members of the Tufts community." AEN urged President Monaco to direct the Office for Campus Life's Awards Committee, to "reconsider its decision to recognize Tufts-SJP for this honor and to rescind the award" and recommended "[engaging] with your faculty and your senior officials in equity, diversity, and inclusion to devise appropriate educational opportunities and antisemitism awareness training for both students and staff."⁶

JANUARY 2020: UNIVERSITY OF MONTANA

At the University of Montana, an antisemitic email was sent to hundreds of members of the campus community on the weekend prior to Martin Luther King Day. In response, President Seth Bodnar released a campus-wide email calling on students, faculty, and staff to strive for inclusivity and equity, and to look to King's teachings.⁷

AEN sent a letter to President Bodnar expressing admiration for his forceful statement: "In our judgment, the campus-wide statement that you released was exactly right. You stated clearly and forcefully what needed to be said in condemning this hateful email, which directed recipients to view speeches of the antisemitic leader of the Nation of Islam hate group, and included a link to the group's offensive book *Jews Selling Blacks*—a vile volume that traffics in anti-Jewish conspiracies and falsely claims that Jews dominated the transatlantic slave trade...We commend you for alerting your campus community to the falsehoods contained in the email, for unequivocally noting that it contained 'ideas that are against everything Martin Luther King, Jr. stood for' and for rejecting the missive as counter to the 'shared UM belief in the dignity of every person.' We also admire your commitment to 'speak out against hate,' to 'respond appropriately and in a timely manner' to any future acts of hatred on your campus, and to fully support those affected by them."⁸

OCTOBER/NOVEMBER 2019: UNIVERSITY OF MASSACHUSETTS, AMHERST

When a pro-BDS event featuring prominent anti-Israel activists such as Omar Barghouti, Linda Sarsour, and Cornel West was scheduled at the University of Massachusetts, Amherst, Chancellor Kumble Subbaswamy released a statement criticizing the pro-BDS event, clarifying that it was being presented by an off-campus organization and, perhaps most significantly, emphasizing that the "BDS position in general fails to acknowledge the humanity on the Israeli side of the conflict and is considered by many as anti-Semitic" and that "the upcoming event could very well alienate many of our Jewish students and other members of

6 Academic Engagement Network, "Letter to Tufts University President Anthony Monaco," April 24, 2020. <https://academicengagement.org/wp-content/uploads/2021/01/AEN-letter-to-Tufts-U-President-Monaco-April-24-2020.pdf>

7 Matt Neuman, "Anti-Semitic emails sent to nearly 400 University of Montana faculty, staff," Missoulian, January 21, 2020 at https://missoulian.com/news/local/anti-semitic-emails-sent-to-nearly-university-of-montana-faculty/article_34049c8f-1a6e-5835-8418-6c9a61dad433.html

8 Academic Engagement Network, "Letter to University of Montana President Seth Bodnar," January 23, 2020 at <https://academicengagement.org/wp-content/uploads/2020/10/Montana-letter.pdf>

our campus community.”⁹ In response, AEN sent him a letter of support, praising his “moral compass in condemning hateful speech that is antithetical to UMass Amherst’s values of tolerance, diversity, and inclusion” and commending the fact that he went “beyond a defense of constitutionally protected speech to specifically highlighting how BDS promotes prejudice and hate which isolates, demeans, and marginalizes Jews, Zionists, and Israelis on...campus.”¹⁰

In addition, after over 40 faculty and administrators at the University of Massachusetts – Boston signed on to a letter condemning Chancellor Subbaswamy’s statement, AEN leaders collaborated with the AMCHA Initiative to send a letter to the President of the University of Massachusetts system, urging him to issue a «system-wide statement clarifying that the University is opposed to academic boycotts of Israeli universities.”¹¹

OCTOBER 2019: UNIVERSITY OF ILLINOIS, URBANA-CHAMPAIGN

When a one-sided, anti-Israel presentation was included as part of a mandatory residential life meeting at the University of Illinois, Urbana-Champaign (UIUC) Chancellor Robert Jones released a strong statement condemning it.¹² In response, AEN wrote Chancellor Jones a letter of support, stating that “We applaud you for taking a public stand against acts and expressions of hatred and bias which serve to isolate, demean, and marginalize Jews, Zionists, and Israelis on your campus. We further applaud you for initiating an immediate and full review of hiring, training and oversight of the university’s Residential Advisors and Multicultural Advocates; commissioning an external review of Housing’s multicultural educational programs; and pledging to launch campus-wide education and training about antisemitism for Housing staff, Resident Advisors, and Multicultural Advocates. We believe that these measures will help UIUC to move forward in the right direction as an academic institution that honors free expression and open inquiry while ensuring that all individuals and communities feel welcomed and respected.”

Furthermore, AEN recommended that the UIUC administration utilize the academic expertise of UIUC faculty members who are active in AEN: “As you move forward with remedial action aimed at creating a healthy and safe climate for Jewish, Zionist and Israeli members of your campus, you are fortunate to have a number of UIUC faculty to whom you can turn. These faculty have expertise on the definition and multifaceted nature of antisemitism, the relationship between anti-Zionism and antisemitism, and the ways in which a robust, critical, and vibrant discourse on Israel and Palestine can be achieved without any group on campus feeling isolated, demoralized, or under siege.”¹³

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- 9 University of Massachusetts, Amherst, “Statement of University of Massachusetts Amherst Chancellor Kumble Subbaswamy,” October 21, 2019. <https://www.umass.edu/newsoffice/article/statement-university-massachusetts-amherst>
 - 10 Academic Engagement Network, “Letter to University of Massachusetts, Amherst Chancellor Kumble Subbaswamy,” October 28, 2019 at <https://academicengagement.org/wp-content/uploads/2020/10/AEN-Ltr-to-Chancellor-Subbaswamy-10-28-19.pdf>
 - 11 Academic Engagement Network, “Letter to University of Massachusetts President Martin Meehan,” November 18, 2019 at <https://academicengagement.org/wp-content/uploads/2020/10/AEN-AMCHA-Ltr-to-Pres-Meehan-11-18-19-2.pdf>
 - 12 UIUC Massmail, Communication from Chancellor Robert Jones at <https://massmail.illinois.edu/massmail/28689.html>
 - 13 Academic Engagement Network, “Letter to UIUC Chancellor Robert Jones,” October 16, 2019 at <https://academicengagement.org/wp-content/uploads/2021/01/AEN-Letter-to-Chancellor-Robert-Jones-October-16-2019-.pdf>

MAY 2019: WILLIAMS COLLEGE

In April 2019, the student-run College Council (CC) at Williams College denied the request of Williams Initiative for Israel (WIFI)—whose goal was to promote education about Israel, celebrate Israeli cultural events, advocate for Israel’s right to exist, and bring new perspectives on the Middle East conflict to campus—to become a registered student organization (RSO).¹⁴

In response, AEN sent a letter to Williams’s President Maud Mandel, making reference to the college’s own Code of Conduct and urging her to reverse the College Council’s decision: “The policies of Williams College aim to implement these laudable principles. According to its Code of Conduct, the school is ‘committed to being a community in which all ranges of opinion and belief can be expressed and debated...The College seeks to assure the right of all to express themselves in words and actions, so long as they can do so without infringing upon the rights of others or violating standards of good conduct or public law.’ While not a public university bound by the First Amendment, Williams College is nonetheless obligated to adhere to its own stated principles and policies. Consequently, we urge you to take immediate action to reverse the decision of the CC and to give WIFI the RSO recognition that it deserves.”¹⁵

APRIL 2019: BROWN UNIVERSITY

In March 2019, a student referendum passed at Brown University in support of “divest[ing] all stocks, funds, endowment and other monetary instruments from companies complicit in human rights abuses in Palestine and establish a means of implementing financial transparency and student oversight of the University’s investments.” In response, Brown University President Christina Paxson released a strong statement in which she opposed the politicization of Brown’s endowment, reiterated her opposition to the BDS movement, and encouraged the Brown community to dedicate itself to constructive dialogue on the issue.¹⁶

When President Paxson faced pushback due to her stance, including from some faculty members, AEN sent her a letter of support and encouragement: “In particular, we fully agree with your statement that ‘Brown’s endowment is not a political instrument to be used to express views on complex social and political issues, especially those over which thoughtful and intelligent people vehemently disagree’ and share your concern that ‘divestment would polarize the Brown community and detract from the inclusive, intellectually-vibrant community we aspire to be.’ We also are thankful for your prior opposition to the BDS movement, which seeks to curtail academic freedom, hinder intercultural exchange and understanding, and single out one nation above all others for condemnation and ostracism. We understand that you are currently facing pushback from some quarters – including, disappointingly, a number of faculty members at Brown – for your stance. Please

14 William Newton, “CC rejects Williams Initiative For Israel,” The Williams Record, May 1, 2019 at <https://williamsrecord.com/86408/news/cc-rejects-williams-initiative-for-israel/>

15 Academic Engagement Network, “Letter to Williams College President Maud Mandel,” May 3, 2019 at <http://academicengagement.org/wp-content/uploads/2019/09/2019.05.03-AEN-letter-to-President-Williams-College.pdf>

16 Brown University, “Letter from President Paxson: Responding to divestment referendum vote,” March 22, 2019 at <https://www.brown.edu/news/2019-03-22/referendum>

know that the Academic Engagement Network supports you fully, precisely due to your defense of dialogue, engagement, and the core values of academia.”¹⁷

17 Academic Engagement Network, “Letter to Brown University President Christina Paxson,” April 3, 2019 at <https://academicengagement.org/wp-content/uploads/2021/01/AEN-Letter-to-Brown-President-4.3.19-2.pdf>

APPENDIX 3C.

AEN POLICY STATEMENTS

AEN occasionally releases official policy statements on matters relevant to its mission. Below is a selection of recent policy statements, with others available on the AEN website:

<https://academicengagement.org/aen-statements-and-letters/>.

JUNE 2021: AEN STATEMENT ON INCENDIARY COMMUNICATIONS REGARDING THE ISRAELI-PALESTINIAN CONFLICT BY FACULTY AND ACADEMIC DEPARTMENTS

AEN wrote the following statement in response to the one-sided anti-Israel statements, letters, and petitions proliferating throughout many academic departments in the wake of the Israel-Gaza conflict in May 2021.¹

The Academic Engagement Network (AEN), an educational organization comprising over 750 faculty on more than 260 U.S. universities and colleges, is deeply concerned about the proliferation of incendiary anti-Israel petitions and statements within the American academy following the escalation of Israel-Hamas hostilities in May 2021. The majority of these recent communications have been ahistorical, factually inaccurate and incomplete, and highly inflammatory in tone. Shared on social media and other online forums and platforms, they erase the history and lived experiences of Israelis, both Jewish and non-Jewish, in the Israeli-Palestinian conflict, and unconscionably neglect to mention the role of Hamas and other militant organizations in perpetuating violence. These statements have left many Jewish, Zionist, and Israeli students, faculty, and staff on U.S. campuses feeling deeply demoralized, silenced, and even intimidated.

Many of these petitions and statements also raise worrisome issues surrounding academic freedom and academic peer pressure. As an organization committed to free speech and freedom of expression within the U.S. academy, AEN supports the right of individual scholars to independently voice their opinions on controversial topics and to sign onto the statements and petitions of their choice. However, we are deeply troubled by the chilling effect on Zionist and pro-Israel scholars, particularly probationary and non-tenure-track faculty, when entire departments, centers, or programs endorse such vehemently anti-Israel documents, or use official channels such as department websites and social media pages to disseminate them. In such cases, the departments appear to be speaking for every faculty member, and dissenters may be intimidated from making known their opposing views.

While welcoming difficult campus conversations on contentious issues such as the Israeli-Palestinian conflict, AEN rejects simplistic, one-sided narratives, and encourages an embrace of the core values of the

1 Academic Engagement Network, “AEN Statement on Incendiary Communications Regarding the Israeli-Palestinian Conflict by Faculty and Academic Departments,” June 2, 2021. <https://academicengagement.org/wp-content/uploads/2021/06/AEN-Statement-on-Anti-Israel-Communications-from-Academic-Departments-6.2.21.pdf>

academy: rigorous academic inquiry and research and respectful discussion, debate, and engagement that is inclusive of all campus groups and communities. At a time of rising antisemitic incidents, many of them motivated by recent events in the Middle East and the hostile rhetoric surrounding them, we call on faculty to consider how recent communications, replete with incendiary rhetoric that demonizes and delegitimizes Israel and its supporters, negatively impact the campus climate for Jewish and all students.

MAY 2021: AEN SECTION FOR WOMEN FACULTY RESPONSE TO THE “GENDER STUDIES DEPARTMENTS IN SOLIDARITY WITH PALESTINIAN FEMINIST COLLECTIVE” STATEMENT

In May 2021, the AEN Section for Women Faculty, a group of committed feminists and scholars from across all ranks in various disciplines at U.S. universities and colleges, wrote to express its deep concerns with, and opposition to, a May 17, 2021 “solidarity statement” issued by the Palestinian Feminist Collective (PFC).²

...Open to Gender Studies department endorsements, rather than fielded as an invitation to individual faculty, the PFC statement raises worrisome issues surrounding academic freedom, particularly with regard to the free expression of junior and unprotected faculty members. As academics committed to the right of faculty to weigh in on matters of public interest openly and without fear of reprisal, we support any individual scholar who wants to sign on to the PFC statement. For this same reason, however, we are opposed to institutional signatures.

It has come to our attention that a number of faculty members who work in the Gender Studies departments, programs and centers that are currently listed on the PFC statement do not support it and, indeed, were not made aware of it prior to their departments joining. By highlighting the program homepages, the PFC disingenuously insinuates a blanket endorsement of its statement by all faculty affiliated with the 112 listed U.S.-based programs. This misleading pronouncement is a tactic of academic peer pressure...

We are very concerned that the PFC statement refuses to recognize an over 100-year intractable conflict as “controversial or complex”. In consequence, its simplistic and monochromatic depiction of this history and recent events either dismisses or ignores entirely the voluminous record of scholarship with which it disagrees.

We hope though that our Gender Studies colleagues will commit to learning more deeply and broadly about Jewish history, Zionism, and Israel’s vibrant and diverse democracy, which is home to nearly half the world’s Jews and where Arab citizens are more integrated into the state and society today than ever before (consider that the eruption of shocking violence perpetrated by Arab and Jewish radical extremists in recent days was met by numerous coexistence rallies held across the country)...”

The complete statement may be found here:

<https://academicengagement.org/wp-content/uploads/2021/05/AEN-Section-for-Women-Faculty-Response-to-the-Palestinian-Feminist-Collective-Solidarity-Statement.pdf>

2 Academic Engagement Network, “AEN Section for Women Faculty Response to the “Gender Studies Departments in Solidarity with Palestinian Feminist Collective” Statement,” May 2021 at <https://academicengagement.org/wp-content/uploads/2021/05/AEN-Section-for-Women-Faculty-Response-to-the-Palestinian-Feminist-Collective-Solidarity-Statement.pdf>.

MARCH 2019: AEN STATEMENT ON PITZER COLLEGE COUNCIL VOTE TO SUSPEND STUDY ABROAD WITH THE UNIVERSITY OF HAIFA

In March 2019, Pitzer College's College Council passed a motion to suspend the college's study abroad program at the University of Haifa in Israel, a decision firmly rejected³ by Pitzer College President Melvin Oliver. AEN released an official statement condemning the College Council's decision and lauding President Oliver⁴:

The Academic Engagement Network (AEN) condemns the decision of Pitzer College's College Council to pass a faculty-originated motion to suspend Pitzer's direct-enroll study abroad program at the University of Haifa in Israel. At the same time, AEN deeply appreciates Pitzer College President Melvin L. Oliver's forceful, courageous, and eloquent statement refusing to implement the Council's recommendation, and offers him our full organizational support.

As an organization which mobilizes...faculty members...across the country to oppose the BDS movement and defend academic freedom, AEN is deeply disappointed that this motion was initiated by faculty. As President Oliver made clear in his statement, the motion curtails academic freedom, hinders intercultural exchange and understanding, and singles out one nation above all others for condemnation and ostracism. All of these run counter to the core values of academia.

This is not the first attempt to end study abroad to Israel – it follows a campaign to end New York University's academic partnership with Tel Aviv University, and the refusal of two University of Michigan professors to write letters of recommendation for students seeking to study abroad in Israel. These efforts align with a core strategy of the US Campaign for the Academic and Cultural Boycott of Israel (USACBI), which has developed an extensive toolkit for activists seeking to end their institutions' relationships with Israeli colleges and universities.

USACBI's "talking points" list involves erroneous allegations against Israel, gross mis-readings of its policies, and a one-sided narrative about the conflict in the Middle East that precludes any possibility of mutual dialogue or understanding. It is telling that the University of Haifa, which proudly has a 35% Arab-Israeli student body and serves as a model of diversity, coexistence, and collaboration in the Middle East, was the most recent target of this destructive campaign. AEN is deeply concerned that the Pitzer College Council's vote...will serve as a precedent for similar divisive campaigns that threaten the academic rights and educational opportunities of students.

Fortunately, there has been pushback to these efforts, in the form of forthright statements like President Oliver's, and earlier that of the ten chancellors of University of California campuses, who strongly declared their opposition to any academic boycott of Israel. AEN hopes that more faculty and administrators join President Oliver and the UC Chancellors in raising their voices against this disturbing trend and standing up for academic freedom and intercultural exchange."

3 Pitzer College, "Message to the Pitzer College Community from President Melvin L. Oliver," March 14, 2019. <https://www.pitzer.edu/president/message-to-the-pitzer-college-community-from-president-melvin-oliver/>

4 Academic Engagement Network, "Academic Engagement Network (AEN) Statement on Pitzer College Council Vote to Suspend Study Abroad with the University of Haifa," March 15, 2019 at <http://academicengagement.org/wp-content/uploads/2019/09/AEN-Statement-on-Pitzer-College-Council-Vote-3.15.19-1.pdf>

OCTOBER 2018: AEN-ADL MODEL POLICY ON LETTERS OF RECOMMENDATION

In September 2018, a professor in the Department of American Culture at the University of Michigan refused to write a letter of recommendation for a student who sought to study abroad at Tel Aviv University, explicitly citing his support for the campaign to boycott Israeli academic institutions. See more in “Attacks on Study Abroad in Israel” (Chapter 10).⁵

In response, AEN collaborated with the Anti-Defamation League (ADL) to develop a model policy for future letters of recommendation, one that would focus primarily on academic merit and qualifications, rather than political considerations. The model policy states, in full, that:

*Faculty with teaching duties are often asked to write letters of recommendation. Such faculty are free to write or refuse to write letters of recommendation based on a range of considerations, including the number of requests, time to fulfill them, familiarity with the requesting student, and an assessment of the student’s work. When faculty are asked to write letters of recommendation, their primary considerations ought to be academic merit and the student’s qualifications. At times, faculty may also wish to consider institutional accreditation and quality of the program. But the decision to express or withhold support for students in the form of recommendation letters should not be influenced by political considerations. Considerations of academic merit, knowledge, preparation, and achievement are the appropriate metrics that should guide faculty in making decisions to write and in preparing such letters.*⁶

JANUARY 2017: AEN STATEMENTS ON THE REJECTION OF BDS INITIATIVES AT THE MODERN LANGUAGE ASSOCIATION AND THE AMERICAN HISTORICAL ASSOCIATION

In January 2017, BDS proponents suffered defeats at the Modern Language Association (MLA) and American Historical Association (AHA). At the MLA, a resolution to boycott Israeli academic institutions was rejected in the MLA delegate assembly, while at the AHA, two petitions that singled out Israel for criticism were rejected.

AEN wrote statements in support of both outcomes:

MLA

The Academic Engagement Network (AEN) congratulates MLA Members for Scholars’ Rights, a group of literature scholars in the Modern Language Association (MLA) that organized a resounding, successful opposition to a BDS resolution for the boycott of Israeli academic institutions at the Association’s annual conference this past weekend. The group also successfully put forward its own resolution which, if ratified by the MLA membership this spring, will bar MLA participation in boycotts in the future.

MLA Members for Scholars’ Rights forthrightly opposed the boycott resolution, arguing that academic and cultural boycott of Israel “contradicts the MLA’s purpose to promote teaching and research on language and literature.” The group reasserted the importance in the humanities as in other academic disciplines of

5 Shiri Moshe, “University of Michigan ‘Disappointed’ After Professor Refuses to Write Recommendation Letter for Student Studying Abroad in Israel,” *The Algemeiner*. September 17, 2018 at <https://www.algemeiner.com/2018/09/17/university-of-michigan-professor-refuses-to-write-recommendation-letter-for-student-studying-abroad-in-israel/>

6 Academic Engagement Network and Anti-Defamation League, “Faculty Guidance for Letters of Recommendation,” October 2018 at <https://www.adl.org/media/12164/download>

principles of academic freedom and open scholarly exchange, while emphasizing dialogue and opposing black-listing Israeli scholars in response to the Israel-Palestine conflict.

The BDS resolution went down to defeat 113 to 79 in the MLA delegate assembly. The anti-boycott resolution was adopted narrowly, 101 to 93, but is hoped to bring several years of acrimonious conflict over the academic boycott to a close in the MLA. Such resolutions have roiled several academic associations in recent years, winning success in smaller, marginal, organizations but increasingly encountering stiffer opposition in larger, more established ones. The MLA victory follows a similar victory in the American Historical Association last year and, more recently, the narrow defeat of boycott by membership referendum in the American Anthropological Association.

Our organization, AEN, firmly opposes the Boycott, Divestment, and Sanctions movement and stands for academic freedom and freedom of expression on American campuses. We have been gratified in the past by the statements of leading university associations and of hundreds of university presidents against the academic boycott, and now applaud the vote of humanities faculty in their leading professional association. We especially congratulate AEN members who were active in the MLA Members for Scholars' Rights and were engaged in planning for the conference, circulating scholarship and arguments, and participating in real time debate on the delegate assembly floor.⁷

AHA

The Academic Engagement Network (AEN) wishes to commend the American Historical Association (AHA), the country's largest organization of professional historians, for rejecting two petitions that singled out Israel for criticism.

Prior to the AHA's 2017 meeting, a group called Historians Against the War submitted two petitions to the AHA's Council, the first calling for an AHA investigation into "violations of academic freedom in Israel and the Occupied Palestinian Territories," and the second calling for a condemnation of blacklists that single out pro-Palestinian students.

The Council decided to take no action on the first petition. Regarding the second, it chose to issue a more general statement in favor of academic free speech and against blacklists which neither mentioned Israel or Palestine at all.

The AEN was on record in a letter to the AHA Council in early December arguing against the merits of both petitions. The letter critiqued their one-sided nature, their lack of context, and their unfounded accusations against Israel, while highlighting how they ignored Palestinian restrictions on academic freedom. AEN's letter also emphasized that the AHA lacked the requisite expertise and experience to fairly and effectively monitor developments in the region.

The AHA's rejection of this resolution comes on the heels of other defeats for the BDS movement within academic associations, including the Modern Language Association's rejection of a resolution to boycott Israeli academic institutions at its annual meeting on January 7, 2017, and a narrow defeat of a boycott resolution by a membership referendum in the American Anthropological Association in June 2016.⁸

7 Academic Engagement Network, "Statement by the Academic Engagement Network on The Defeat of Academic Boycott in the Modern Language Association," January 9, 2017 at <http://academicengagement.org/wp-content/uploads/2019/09/AEN-Statement-on-the-MLA.pdf>.

8 Academic Engagement Network, "Statement by the Academic Engagement Network on the Rejection of Anti-Israel Petitions at the American Historical Association," January 10, 2017 at <http://academicengagement.org/wp-content/uploads/2019/09/AEN-Statement-on-AHA.pdf>.

FALL 2016: AEN SUGGESTIONS ON UC REGENTS PRINCIPLES AGAINST INTOLERANCE

The UC Board of Regents Principles Against Intolerance represented a path-breaking step forward in highlighting antisemitism and antisemitic forms of anti-Zionism as problems on campus but did not include concrete guidance on definitions or implementation. Thus, AEN recommended the following guidelines to assist university leaders in taking the lead in the development of a more inclusive campus climate and community:

1. Openly affirm and embrace the report and principles, understand the distinction between speech and conduct (the document does not limit free speech), and acknowledge that antisemitism is one of the bigotries to be included among other isms, including racism, sexism, homophobia, Islamophobia, etc., that threaten inclusive community and the university as a free and ordered space.
2. When antisemitism occurs on campus, administrators should identify it as such (not merely affirm the right of individuals to free speech and say the proponents do not speak for the university); they should also speak out openly against such bigotry and point it out as dangerous and threatening to a community of reason. This will require defining it for purposes of recognition and explication.
3. University leaders, by speech and action, should make it clear to all stakeholders that antisemitic expression will not go unanswered and antisemitic conduct will not be tolerated. In matters of speech, administrators should swiftly, forcefully, and publicly identify it and speak out, offering good speech to counter bad speech. In matters of conduct or behavior, they should openly condemn acts of antisemitism that violate the rights of others to free speech and assembly or freedom of movement, institute investigation and judicial proceedings to ensure both fairness and due process and, at the same time, equal enforcement of student codes of conduct and appropriate follow through and discipline.
4. University leaders should also put their minds to the important tasks of periodically training the university team of campus administrators and staff (student affairs, equity, diversity, and inclusion officers) to identify antisemitism and antisemitic forms of anti-Zionism, both in speech and behavior, and to developing clear protocols for responding to such bigotry or discrimination in real time. Universities should review and update their student conduct codes and protocols on responses to disruption and harassment; university leaders and personnel should also learn to respond to campus antisemitism with similar urgency as to other forms of racial, religious, ethnic, and gender bigotry and discrimination.
5. Finally, university leaders should see to the appropriate allocation of scarce resources and the scheduling of continuing effort to educate students, faculty, and community about contemporary forms of antisemitism and anti-Jewish discrimination as well as other forms of bigotry and discrimination (same for Islamophobia, racism, sexism, homophobia, and so forth). Training and education in such matters can occur together. Such education programs should target freshman orientation, student government, the leadership of student organizations, and annual residential advisor training in university housing on residential campuses. Such education programs should occur simultaneously with other orientation programs educating about the university student code of conduct and enforcement.

APPENDIX IV:

ADDITIONAL RESOURCES FOR UNIVERSITY RESPONSES & FACULTY ACTIONS

APPENDIX 4A.

FACULTY STATEMENTS AGAINST BDS

The following are selected recent petitions, statements, and open letters initiated and signed by faculty members. They range from arguments against specific anti-Israel divestment campaigns, to general statements against the one-sided and divisive nature of BDS, to refutations of erroneous claims made by on-campus supporters of BDS.

COLUMBIA UNIVERSITY—JUNE 2021

In the wake of the conflict in Israel and Gaza in May 2021, AEN faculty members at Columbia University wrote a letter supporting academic ties with Israeli institutions and affirming the legitimacy of Zionism. Nearly 230 faculty ultimately signed the letter.

As members of the faculty of Columbia University, we are deeply concerned by the recent war between Israel and Hamas. In the wake of this sobering conflict, we write to express our commitment to the University's ties with Israel. Our research and teaching missions benefit from these ties, and we encourage the University to build on them.

As a democracy with constitutional protections for the individual rights of all citizens, and as the home to great universities, Israel shares values, interests and aspirations with us. Columbia benefits from ties with Israeli faculty, students, research, and technology.

Zionism—Jewish nationalism—is a millennia-old tradition, deeply rooted in Jewish history and religious practice. It is also a more recent response to the tragic failure of the diaspora to produce freedom and safety for Jews living in most places in the world. The establishment of the state of Israel was a direct response to the Holocaust, but Zionism long predates the Holocaust, and Israel has provided refuge to Jews who needed it in many instances after the Holocaust. To treat Zionism as an illegitimate and fundamentally oppressive movement is to ignore history and to deny Jews a measure of empathy and respect. Many of us have relatives and friends in Israel who would not be alive if not for Zionism. We recognize that the conflict between Israelis and Palestinians is one between two people each of which has a legitimate claim to the same homeland. There have been many similar situations in the world, resolved sometimes tragically, sometimes successfully, usually somewhere in between.

This sort of conflict presents profoundly complicated issues. Indeed, we may not all agree with every policy of the Israeli government, just as the Israeli people have a range of views about the best path to a peaceful and secure coexistence with their neighbors.

Yet we at Columbia have a responsibility to recognize the complexity of the region's politics and avoid ideologically charged language that is designed to inflame passions on both sides of the conflict. The mission of a great university

is to explore and debate complex questions. We are at our best when we evaluate competing arguments, hone in on the facts, recognize nuances, and seek the truth.

We are not writing this letter to endorse any one approach to the Israeli-Palestinian conflict, but to stand up for a vision of the university. We are members of an academic community at one of the world's great research universities. Columbia institutionally and Columbia scholars individually carry out the university's and our profession's basic mission of teaching and research all over the world, in a wide variety of political environments. We do so because we believe that free academic practice is a force for good.

Individual members of our community are of course welcome to make their own choices about where and with whom they engage, but to make all academic activities conditional on the policies of the government of any country where they take place would be severely limiting for the University. To apply the condition only to Israel, a democratic nation, with growing ties to other governments in the region, where Columbia's academic activities are open to Israelis and Palestinians, would represent an unacceptably selective application of this highly problematic principle.

Proposing disengagement from Israel, in rhetoric that harshly characterizes the Jewish national project, has consequences here in New York too. At a moment when violent hate crimes, often including antisemitic violence, have erupted across the world, including here, it is all the more important for Columbia to model an environment in which students feel free to air competing perspectives on the Israeli-Palestinian conflict.

For all these reasons, we strongly affirm Columbia's connection to Israel.

<https://www.columbiafacultystatement.com/>

CITY UNIVERSITY OF NEW YORK (CUNY)—JUNE 2021

AEN members at the City University of New York (CUNY) helped to organize a petition, open to faculty, students, alumni, and staff, against academic or cultural boycotts of Israel and encouraging respectful and civil debate on campus.

A great university must champion diversity and cultivate a tradition of civil discourse and engagement on complex issues and conflicts.

Watching the latest needless suffering of Palestinians and Israelis, we suffer with them. A just and lasting peace can only emerge by building trust through mutual respect and by recognizing the aspirations of two peoples, both with legitimate claims for a sovereign homeland.

We recognize the aspirations of the Palestinian people and we support Israel's right to exist in peace and to protect its citizens. Denying Israel the right to defend itself from thousands of rockets launched by Hamas is to deny its right to exist. The one-sided "CUNY Community Statement of Solidarity with the Palestinian People" seeks to shut down discussion by condemning Israel for defending itself.

The inflammatory language of this statement creates a hostile environment at CUNY, particularly for Jewish students, many of whom have been threatened and harassed by activists who seek to delegitimize Israel. It is CUNY's responsibility to ensure the security and safety for all students.

We therefore reject calls for an academic or cultural boycott of Israel and urge the CUNY community to engage in informed, respectful, and civil conversation on conflicts at home, in the Middle East, and around the world. The university must make the safety of students a priority so that verbal threats do not lead to physical violence when students return to campus this fall.

<https://cunystatement.com/>

HARVARD UNIVERSITY—JUNE 2021

AEN faculty members were among those who organized and circulated a letter demonstrating solidarity with Israel during a time of conflict and expressing concern about anti-Israel and antisemitic sentiments at Harvard, in Cambridge, MA, and in broader society.

As members of the Harvard community, we stand by the State of Israel in its right to self-defense and by the right of the Jewish people to self-determination. We acknowledge that even across our community, there is a wide range of views on the Israeli-Palestinian conflict, and we stand by the importance of civil discourse. This includes voicing concerns or grievances against Israeli government policy, as well as differentiating between legitimate criticism of a country's government and questioning that country's right to exist.

We condemn, in the strongest of terms, the indiscriminate firing of rockets by Hamas, a U.S.-designated terrorist group, at Palestinian and Israeli civilians. We also stand against Hamas in its calls to destroy the State of Israel and exterminate the Jewish people, as well as its use of Palestinian civilians as human shields for its militants.

We are tremendously saddened by the events of the last two weeks, starting with the tragic loss of innocent Israeli and Palestinian life, followed by a frightening spike in reported antisemitic attacks across the country and the globe, including in cities such as New York and Los Angeles. Jews have been harassed while grocery shopping and instructed to stay in their homes over the Jewish Sabbath for fear of antisemitic attacks. Even at Harvard, students have been disturbed by posts on social media cheering on the burning of Israeli flags and dismissing student fears about antisemitism.

We are also disheartened by the rise in anti-Israel sentiment and in activism across the University and the greater Cambridge area that seeks to delegitimize the existence of the State of Israel and the right of the Jewish people to self-determination, not least through the libelous application of terms such as “apartheid,” “white supremacy,” “ethnic cleansing,” and “colonialism.” By extension, it pains us to see a rise in support among students and faculty for the Boycott, Divestment, and Sanctions (BDS) movement, whose founder Omar Barghouti has made statements such as “[Jews] are not a people” and has opposed “a Jewish state in Palestine in any shape or form.”

When we see the State of Israel — the homeland of the Jewish people and the world's only Jewish state — being demonized, delegitimized, or held to a standard to which no other country is held, we recognize and name this as antisemitism. We also recognize with heavy hearts that such declarations by the BDS movement and other opponents of Israel will inevitably be followed by violent antisemitic attacks against Jews.

We hope for a solution to this conflict that will support self-determination for both Palestinians and Israelis, and we pray for a day when all people — Israeli, Palestinian, and otherwise — can live in peace and dignity.

—The Harvard Israel Initiative

<https://docs.google.com/forms/d/e/1FAIpQLSdqrXKUZ-60xgKZNQ6A6of4B2w5pimVRy7tmWOUFdcHwRx9mw/viewform>

UNIVERSITY OF SOUTHERN CALIFORNIA – AUGUST 2020

When a student government official at USC resigned after experiencing harassment for her Zionist views, AEN faculty members helped to organize a USC faculty letter, “An Open Letter to the USC Community on Supporting Zionist Students at USC.” Over 40 USC faculty members ultimately signed the letter.

We, the undersigned faculty of USC, have followed the case of Rose Ritch and her resignation from student government with great dismay. As described in the supportive statement by President Folt and fully detailed in the statement by the Alliance for Academic Freedom of August 24th, Rose Ritch was subjected to vicious online harassment, and her qualification to hold elected office was questioned on the basis of her professed Zionism.

We find it unacceptable that such blatant discrimination on the basis of a student’s belief, identity, or national origin could take place on our campus.

We reject in the strongest possible terms any and all attempts to associate Zionism with such inflammatory accusations as racism, colonialism, and white supremacy, which are diametrically antithetical to Zionist ideas and aims. We are appalled that such characterizations of Zionism were the basis for calls for Rose Ritch’s resignation, and continue to be voiced by certain organizations on this campus.

As supporters of the Zionist idea — the right of the Jewish people to a homeland and self-determination—we stand by the rights of all people, including Israelis and Palestinians, to freedom, dignity and peaceful coexistence, and to advocate for their causes with fairness and respect on our campus and in the world.

Contentious issues concerning the Middle East conflict must be engaged by encouraging students to study the history of the conflict and to participate in discussions regarding its possible resolution. Only in that way can USC foster a campus culture that is truly inclusive and respectful of diversity.

As dedicated members of the USC faculty, we are concerned about the long-term impact of Rose Ritch’s resignation on the morale and well-being of supporters, or presumed supporters, of the State of Israel. This includes Jewish students, faculty, and staff at USC, dedicated contributors to this campus’s excellence and visibility, whose fitness to continue their service may come under attack. We call on our university’s leadership to uphold the values of open and civilized debate, so that USC can continue its mission of fostering excellence in education and advancing knowledge in a civil and respectful manner.

<https://usc-faaz.org/>

CALIFORNIA STATE UNIVERSITY – AUGUST 2020:

In July and August 2020, controversy arose regarding the mandated teaching of ethnic studies throughout the California State University system. A proposed bill, AB 1460, had come under criticism for its high cost, legislative intrusion in a university graduation requirement, and narrow understanding of the role and scope of ethnic studies. An alternative proposal from CSU Chancellor Timothy White, which was approved by the CSU Board of Trustees, allowed for a more comprehensive, inclusive, and contemporary interpretation of ethnic studies, gave students much greater choice in their coursework, and preserved faculty governance of the curriculum. More than 115 faculty members throughout the CSU system signed on to an open letter addressed to California Governor Newsom, urging him to veto AB 1460 and adopt the CSU proposal instead.

Dear Governor Newsom,

We are current and emeritus faculty in the California State University system and we are writing to you to urge you to veto AB 1460 (the Weber Bill) in favor of Chancellor White's alternative proposal that was adopted by the Board of Trustees last week.

1. AB 1460 Enacts into Law a Discriminatory System

While the purpose of AB 1460 is commendable, the bill defines Ethnic Studies as "an interdisciplinary and comparative study of race and ethnicity with special focus on four historically defined racialized core groups: Native Americans, African Americans, Asian Americans, and Latina and Latino Americans." As such, it excludes, by definition, all other Ethnic Studies programs in the CSU, including, but far from limited to, Jewish Studies.

This current definition of Ethnic Studies is trapped in a limited conception held by some activists in the late 1960s; it is time California moved into the 21st century and broadened its definition to include the other ethnic groups who make a home here in California, such as Jews, Armenians, Arabs, and South Asians, all of whom are excluded by this bill.

2. The Importance of a Social Justice Component

Chancellor White's alternative plan fixes another major flaw in AB 1460, by expanding the graduation requirement to include courses in social justice. This proposal recognizes that contemporary demands for social justice have expanded over the last fifty years to include women, LGBTQ, and others. We model social justice not by limiting its application to those groups who were active in 1969, but by including those who are struggling today.

In fact, without including these groups, one cannot understand contemporary American racism and white nationalism. One need only look at California's annual report on hate crimes to see how powerful the forces of antisemitism and homophobia are in motivating violent attacks. By excluding Jews, women, and LGBTQ and limiting the mandate to only the original four groups, CSU students will be denied the resources to confront the dangerous forces threatening our communities.

3. Chancellor White's Proposal Restores Flexibility and Autonomy

AB 1460 represents an extraordinary intrusion of the legislature into the academic independence of the CSU system. It not only directs students to take a course in a specific subject but requires that students take the courses designed

to be offered by only a few specific departments or programs. This sets a dangerous precedent for the legislature to interfere in other areas of the CSU and infringes on faculty governance of the CSU system.

For all these reasons, AB 1460 is a fatally flawed bill and should be vetoed in favor of the Ethnic Studies and Social Justice graduation requirement adopted last week by the CSU Board of Trustees. We commend Chancellor White and the Board of Trustees for their thoughtful and responsible solution that preserves faculty governance of the curriculum, gives students a choice, and supports the teaching of all ethnic studies and social justice.

<https://www.csufacultyagainstab1460.com/>

COLUMBIA UNIVERSITY—FEBRUARY 2020:

In Spring 2020, Columbia University Apartheid Divest, the primary anti-Israel group on Columbia's campus, decided to press forward with a proposed anti-Israel divestment referendum scheduled to coincide with student elections (despite the campus shutting down due to the COVID-19 pandemic). To demonstrate a robust faculty voice in opposition to the BDS agenda, AEN organized an online open letter, initially signed by 12 AEN members at Columbia and ultimately signed by nearly 130 others. The petition's springboard was a strong statement against antisemitism made by President Lee Bollinger in front of a Senate Plenary on March 6 and in opposition to the upcoming referendum:

We, the undersigned Columbia faculty, appreciate President Bollinger's forceful and unequivocal declaration against bigotry and prejudice, which are intolerable, as he said, when directed against any group, especially within a university. We applaud our president's condemnation of anti-Semitism in all its many forms. We also support his principled opposition to the rhetoric and activism of the BDS movement, which singles out and applies a double standard to Israel and often manifests itself as an attack on Jewish identity.

As faculty across all ranks who research and teach on the Columbia campus, we are committed to fostering a learning community that respects free inquiry, intellectual engagement, and open exchange. We believe that our University thrives on debate and dissent over contentious local, national, and global issues and challenges. We recognize that a critically engaged student body is essential to advancing Columbia's educational mission. Still, as President Bollinger rightly reminded us on March 6, we must be "careful and vigilant" lest the "vast and ever-present debate about Israel, the West Bank and Gaza, the Middle East" turn into "anger, then to hatred and demonization, and invidious discrimination." When valid disagreement deteriorates in this way, we must work even harder, as President Bollinger insisted, to "ensure that the debates we have about debatable matters be done in good faith and with a sense of shared humanity, and with respect."

Like President Bollinger, we oppose a proposal on the Spring 2020 student elections ballot that the Columbia endowment should divest from companies that do business in Israel. Our president joins many university leaders who in recent months have also denounced pro-BDS campaigns on their own campuses as both divisive and lacking in merit. As President Bollinger correctly noted, the proposal for divestment is unwise, analytically flawed, and violates a sense of fairness and proportionality.

We hope that President Lee C. Bollinger's powerful speech against anti-Semitism will become the basis for a remedial action plan for the campus, with concrete and measurable goals. We stand ready to work with President Bollinger and others in the Columbia senior leadership to improve the campus climate for all students, including Jewish students.

<https://www.columbiafacultyagainsthate.com/>

UNIVERSITY OF CALIFORNIA, BERKELEY—FEBRUARY 2019:

In response to an op-ed by several UC Berkeley faculty members advocating for the right to boycott Israel in academia (which was itself a response to the December 2019 collective statement by all 10 UC chancellors that opposed a boycott of Israeli academic institutions or individual scholars), 17 faculty members at UC Berkeley signed a letter refuting their claims:

The article asks how Boycott, Divestment and Sanctions — the movement to boycott, divest and sanction the Israeli state for its occupation of Palestinian territories — poses a “direct and serious threat to academic freedom,” as the chancellors’ statement claims. The authors claim that “BDS targets state-funded Israeli institutions and Israeli commercial activities. It does not prevent anyone from saying anything or attempt to sanction or thwart individuals for their political positions.” This is simply untrue.

Official guidelines from a Palestinian organization associated with the movement say faculty members should refuse to write letters for students seeking to study in Israel. Similar sources say BDS seeks to close down study abroad programs in Israel. We believe that BDS supporters also seek to prevent Israeli scholars, politicians and others from coming to the University of California based solely on their country of origin. For years BDS supporters have disrupted campus events featuring individuals who espouse views they oppose, and they have thus deprived University of California students, faculty and staff of their right to hear alternative viewpoints. The goals of BDS and its supporters’ actions therefore do pose a clear and direct threat to academic freedom and, in our view, are also discriminatory.

The op-ed asks why the chancellors chose to make a statement on a boycott of Israel and Israel alone. Why not, the authors ask, condemn various other off-campus provocateurs who attack students and professors who advocate for justice for Palestinians? The authors speculate on possible “direct or indirect pressure” from private donors. They single out “101 organizations of the Academic Engagement Network defending Israeli policy” as a possible source of pressure because of a thank-you letter the organizations wrote to the chancellors. The Academic Engagement Network is only one of the 101 organizations that signed the letter. Contrary to the article’s claim, its mission is to support academic freedom and discussion on Israel, not to defend Israeli policy.

Further, the authors wonder why the chancellors’ statement did not speak out against Canary Mission, an organization that profiles individuals and organizations that support BDS. All we know is that the UC Berkeley administration previously spoke out against Canary Mission in the Daily Cal.

Neither the authors nor we are in a position to know the reason for the chancellors’ statement, though it should be said that it is merely a restatement of principles they have previously enunciated.

We do think there is a less conspiratorial explanation for restating these principles: repeated attempts by campus activists advocating an Israel boycott to disrupt Israel-related events and rally student governments and other campus bodies to their cause. BDS supporters have disrupted events at UC Berkeley, UCLA, UC Irvine, UC Riverside and UC Davis. So the chancellors’ restatement is, in fact, much-needed. It bears noting that well over 200 university leaders in the country have rejected BDS, so the UC chancellors do not stand out in their opinions. We are not aware of any university leader that has affirmed support for the boycott.

The authors of the previous op-ed claim the chancellors' statement will have a chilling effect on pro-Palestinian activism, but it didn't prevent these professors from expressing their views in the Daily Cal. Would the chancellors issue a similar statement if there were calls to boycott human rights violators in other parts of the world? We don't know because campus activists have focused mostly on Israel.

If the signatories of the previous op-ed and others who support their views want nothing to do with Israel, that is their prerogative. But there is no reason why the University of California should permit them to foist their politics and discriminatory attitudes on the rest of the university."

<https://www.dailycal.org/2019/03/19/boycott-divest-and-sanctions-threatens-uc-berkeleys-right-to-hear-alternative-views/>

UNIVERSITY OF ILLINOIS, URBANA-CHAMPAIGN—MARCH 2018:

During a pro-BDS referendum at UIUC, Cary Nelson (an emeritus professor at the university and former president of the AAUP) wrote an op-ed, "Another Acrimonious Debate About Israel?", that argued for voting "no" on the BDS referendum question and exposed the many flaws in the pro-BDS position. Seventeen additional faculty members at UIUC signed on to the op-ed, including Jeffrey R. Brown, the Dean of UIUC's Gies College of Business, who had previously written his own letter against the BDS referendum.

Last month student senators listened attentively to two hours of public comment from UIUC students and faculty. The topic: should there be yet another referendum on this spring's ballot about whether the university should divest from companies doing business in Israel? That issue was widely debated on campus last year, and the referendum was soundly defeated.

Although people spoke on both sides of the issue, on one point speakers from both sides agreed. Jewish and Palestinian students alike testified that they felt harassed and threatened by the hate speech the campus debate generated. Campus discussion about the Israeli-Palestinian conflict can be civil, but contests to win a forthcoming vote often are not. Competition aimed at obtaining a victory involves passions of a different character.

At the student government meeting, referendum advocates made their strategy clear: they were going to reintroduce the referendum year after year. A clear expression of student opinion opposing it in a democratic vote didn't matter. They were not giving up.

That strategy has already been followed on other campuses, sometimes with annual votes taking place for a decade. Arguing over a divestment resolution as a result crowds out every other topic — from tuition levels, to class size, to loan programs — that students care about and where their advocacy can make a difference.

On divestment, a campus vote amounts to empty symbolism. No Board of Trustees is going to let students, faculty, or staff decide investment policy. Investment policy is a Board fiduciary responsibility. A broad brush condemnation of a series of companies, moreover, simply invites Board dismissal.

Divestment is actually a complex subject that gets confused and falsified by the resulting tweets and posters and slogans. Some companies that do business on the West Bank actually make Palestinians' lives easier, but they are nonetheless targeted for protests. A number of companies do not sell directly to Israel. They sell to the US Defense Department, where Israel makes approved purchases, drawing on funds appropriated by the US Congress. What

would happen to a US company that told the Pentagon it would have to approve the Defense Department's customer list? Many targeted US corporations have offices and headquarters in Illinois. They offer internships to UI students. They hire students' parents and relatives. Such companies have reason to expect fair and specific engagement from UI groups, not uniformed condemnation.

Yet at the campus student government debate last month, companies in all these categories were basically accused of war crimes. That is not a carefully reasoned position. National BDS web sites target any company, among others, that sells to the Israeli army, including companies that sell shoes and binoculars, even when the same models are marketed to civilian consumers here and abroad.

The University has important research collaborations with Israeli faculty members and their institutions. It has study abroad programs for students. Academic freedom provides that students and faculty have the right to pursue those options. The same Boycott, Divestment, and Sanctions (BDS) movement that promotes divestment urges universities to eliminate all those relationships. It even says faculty members should refuse to write letters of recommendation for students wanting to study in Israel. The local and national groups that endorse divestment endorse those demands as well.

The Israeli-Palestinian conflict is among the important topics that should be studied and discussed on campus. But a divestment debate is not a good way to do so. There are courses offered in our institution that encourage a critical approach to studying Israel and Palestine. These engage in nuance and context, providing students the opportunity to learn in detail. By contrast the rhetoric surrounding the divestment debate can be shallow, informed by simplistic slogans.

We do not need another acrimonious divestment debate at UIUC.

<https://medium.com/@nelson.cary/another-acrimonious-debate-about-israel-29d1b0dd4b92>

UNIVERSITY OF MINNESOTA—MARCH 2018:

During a pro-BDS referendum at the University of Minnesota, Oren Gross, a member of the law faculty, wrote an op-ed, “Say ‘No’ to Antisemitism on Campus,” where he detailed how the referendum question singled out Israel and thus contributed to divisions on campus. Thirteen other faculty members signed the op-ed.

...This referendum is problematic for multiple reasons. Most glaringly is its Israel-obsession focus. If the authors of the referendum were, in fact, serious about the topics raised by the three questions, then why is it that they have chosen to single out only one country for their opprobrium? The referendum’s singular focus on the only Jewish state and the most thriving (not to say only) democracy in the Middle East, while “surprisingly” overlooking many far more serious crises and violations of human rights occurring elsewhere, is telling. The referendum oozes double standards. The willingness to make false assertions about Israel coincides with a stunning silence about the merciless deaths of more than 400,000 Syrians at the hands of the Bashar al-Assad regime, on the northern border of Israel itself, over the past five years, along with the creation of millions of refugees fleeing that murderous government. The referendum is also silent about the many other gross violations of human rights perpetrated by the Arab governments in the region — violations far worse than anything Israel has ever done. Singling out Israel and ignoring the Syrian catastrophe is a particularly egregious form of selective indignation.

The referendum’s real goal is thus not to remedy human rights violations. It is to delegitimize the State of Israel.

In fact, it is a long-standing goal of the BDS (boycott, divest, and sanction) movement and its supporters, to destroy the Jewish state, rather than to work for a peaceful solution between Israelis and Palestinians. The rallying cry of SJP, BDS and their ilk is ‘from the river (Jordan) to the (Mediterranean) sea, Palestine shall be free.’ This is revealing in so far as it calls for no place for Israel in that space. What BDS is about is thus the destruction of Israel, not living side by side it; it is about a Jewish-free Palestine, not Justice in Palestine.

The link between the BDS movement and antisemitism has been borne out by numerous studies showing, for example, that the occurrence of BDS activity was “very strongly correlated” with the occurrence of antisemitic expression on campus, with 95% of schools with BDS activity having incidents of antisemitic expression, compared with “only” 33% of schools with no BDS activity. In addition, schools with more incidents of BDS activity have tended to have more incidents of antisemitic expression. Indeed, studies also found that “BDS activity...[was one of] the strongest predictors of incidents that target Jewish students, the factor with the most deleterious effect on campus climate for Jewish students.”

The BDS movement propagates a new type of antisemitism, one that seeks to deny Jews, as such, the right to self-determination in the land of their origins. In the name of self-determination, BDS seeks to deny the very same right to one people, the Jewish people.

The tactics we see now — broad, sweeping claims backed up by few specifics — are familiar in efforts by the BDS movement. They have created tensions and divisions on many campuses around America and targeted one group of students on campus. BDS resolutions and campaigns often promote a hostile environment for many Jewish or pro-Israel students where they are promoted. We agree with the University of Minnesota President, Eric Kaler, who, in response to an earlier resolution offered in 2016, articulated that “[O]ur university should be wary about such boycotts, given our core values of academic freedom and our commitment to the free exchange of ideas, uncertainty about the impact of such efforts, and concerns that we may be unfairly singling out one government.”

As faculty, we stand for academic inquiry and critical thinking and we seek to promote those values amongst our students. This referendum is simplistic, discriminatory, without adequate detail, and likely to be quite divisive. We are confident that the referendum should be and will be rejected on this campus.

<https://medium.com/@orengross/say-no-to-antisemitism-on-campus-f8417b1739b8>

UNIVERSITY OF CALIFORNIA, BERKELEY—DECEMBER 2017:

Sixteen UC Berkeley professors sent a letter to J. (The Jewish News of Northern California) in support of four Jewish student groups for their statement regarding lecturer and Students for Justice in Palestine founder Hatem Bazian. The students' letter urged the administration to take "decisive action" against Bazian following the recent discovery of anti-Semitic tweets he had shared.

We write strongly to endorse the outrage expressed by Jewish student groups in the face of a persistent pattern of anti-Semitic expressions (statements, postings, re-tweets) by UC Berkeley Lecturer Hatem Bazian.

This is not about the Arab-Israeli conflict, the situation facing Palestinians in the Middle East, or Zionism. This is about the stoking of anti-Semitism in its age-old form of demonizing Jews. Whether or not such expressions are protected by the First Amendment or by academic freedom, they are clearly a violation of the principles of community and principles of tolerance embraced by the system wide University of California and by UC Berkeley.

We condemn such anti-Semitism and demand that Lecturer Bazian desist from associating any of his anti-Semitic postings with our University, directly or indirectly. We note that one such expression was posted on a website associated with the University, was taken down after faculty protested, and now has returned to the website. Such outrageous actions surely would not be tolerated were the target other ethnic, racial or religious groups.

We faculty members will not stop resisting such efforts to "normalize" anti-Semitic expressions, as if these are different in kind from other forms of ethnic, racial, or religious prejudice. Anti-Semitism has no legitimate place in this university or our society.

<https://www.jweekly.com/2017/12/06/16-uc-berkeley-faculty-side-jewish-students-bazian/>

UNIVERSITY OF MARYLAND—NOVEMBER 2017:

Prior to a student government vote on a pro-BDS resolution at the University of Maryland, nine faculty members wrote an op-ed for the Diamondback (the student newspaper) refuting the arguments made in the resolution.

For the following reasons, we the undersigned members of the faculty write to oppose "A Resolution to Promote Human Rights by Divesting from Companies that Profit from Investments in Palestine," which the University of Maryland SGA will vote on next week.

1. The very title of the resolution signals that it is part of a decades-long effort to delegitimize and destroy the state of Israel. Its refusal to use the term "Israel" — in existence since 1948 and a member of the U.N. — illustrates that the purpose of the resolution is to eliminate the state of Israel. The Student Government Association should not support resolutions that are part of an effort to undermine a democracy and a close ally of the U.S.

2. *With 37 clauses and multiple tendentious assertions of supposed “facts” about the conflict between Israel and the Palestinian Authority and the Hamas leadership in Gaza, it is impossible for student representatives who are not experts in the details of these issues to reach an intelligent and informed judgment in the week between Nov. 8 and Nov. 15.*

To vote in favor of such a resolution without consulting the assessments of the Israeli government would be to listen to only one side of a very long-standing conflict. That does not live up to standards of fairness we expect in student government. Careful deliberation calls for a balanced presentation of facts. The resolution is a totally one-sided view of the Israeli-Palestinian conflict. On those grounds alone, it deserves to be rejected. It reads as if Israel has no answers to these accusations.

3. *The resolution draws on the language of diversity and inclusion to support a political stance that would exclude Israel from the Middle East. Far from being a resolution that fosters inclusion and diversity, it contributes to an international trend toward authoritarianism and anti-liberalism — for such are the natures of the Hamas and Palestinian Authority governments. (For instance, just think about gay rights.) How does an effort to attack the one Jewish state in the Arab world support the goals of diversity and inclusion?*

4. *The resolution emphasizes the well-known fact that the political and economic relationship between the U.S. and Israel and between American corporations and the Israeli state and economy is strong and deep. Rather than laud these connections as part of a praiseworthy alliance among democracies, it casts aspersions on them in an effort to break that alliance and isolate Israel.*

Do the student representatives want to help destroy the American alliance with Israel? For that is the outcome this resolution hopes to achieve. The likely outcome of such a disaster would be to endanger Israel, showing Palestinians that their goals could be achieved without compromise and thus dooming any hope for a negotiated settlement of the conflict.

5. *The resolution says nothing about terrorism or about the fact that Hamas and Hezbollah are in a state of war with Israel, while the PA, even under Mahmoud Abbas, continues to insist on a right of return that would mean the end of the state of Israel. It reads as if there has not been a state of war for seven decades and as if Israel is not confronted with any threats. It presents the conflict as a one-sided tale of Israeli perfidy and Palestinian innocence, treating student representatives as if they know nothing about the history of the conflict and counting on that lack of knowledge to make its case.*

6. *The resolution oozes double standards. The willingness to make false assertions about Israel coincides with a stunning silence about the merciless deaths of more than 400,000 Syrians at the hands of the Bashar al-Assad regime, on the northern border of Israel itself, over the past five years, along with the creation of millions of refugees fleeing that murderous government.*

It is also silent about the many other gross violations of human rights perpetrated by the Arab governments in the region — violations far worse than anything Israel has ever done. Singling out Israel and ignoring the Syrian catastrophe is a particularly egregious form of selective indignation.

7. *As a practical political matter, the students who consider voting for this resolution should know that they will cause deep wounds in the student body. This university has one of the largest Jewish student bodies on the East Coast.*

After chants of “the Jews will not replace us” in Charlottesville and the revival of anti-Semitism on the hard right, this resolution is politically self-defeating at a moment when shared opposition to racism and anti-Semitism should be a priority.”

<http://www.dbknews.com/2017/11/09/bds-umd-sga-antisemitism-israel-palestine-bill-racism-terrorism/>

CITY UNIVERSITY OF NEW YORK—OCTOBER 2017:

After the Doctoral Students’ Council (DSC) of the CUNY Graduate Center passed a resolution to boycott Israeli academic institutions, over 160 faculty throughout the CUNY campuses signed an open letter, called “Dialogue Not Boycotts.” The letter emphasized the importance of the free exchange of ideas and highlighted the one-sided nature of BDS supporters’ arguments.

We affirm our support for the free exchange of ideas and the right to associate freely with individuals and academic institutions of our choice. We therefore stand against efforts by student governance bodies and professional academic associations to dictate how we should act.

We are dismayed that the bedrock principle of academic freedom was forsaken by the Doctoral Students’ Council (DSC) of the Graduate Center of the City University of New York on 15 April 2016 and by CUNY faculty supporters in a letter of 7 May 2016 in an effort to isolate Israel. The DSC’s resolution reaches across the globe to the Middle East, a region roiled by intense hatreds of Sunni, Shia, and Alawite Moslems, Christians, Kurds, Jews, Druze, and Yazidis and inflamed by radical political visions, religious enmity, and terror, to denounce a single state—Israel—the only state in the region with full legal protection for minorities and women and active programs to increase participation of underrepresented minorities in all aspects of life. Israel struggles to achieve de facto as well as de jure equality for all segments of its population. We look forward to the day when a democratic Palestinian state will contend with the same challenges.

The DSC has justified its resolution on the basis of Israeli “colonialism and structural racism.” No other entity in the Middle East is charged with racism, even though Israel and its citizens face unrelenting racial and religious hatred. The charge in the DSC resolution of Israeli colonialism, without mention of the need for a secure homeland for Jews is a chilling disregard of the natural concern of Israel’s citizens for their own survival. Clearly, finding a way towards peace will not be easy—it will take openness, imagination and flexibility. The signers below don’t necessarily agree on the steps that should be taken by the Israeli government and the Palestinian Authority in seeking peace, but are united in their support for academic freedom and opposition to one-sided resolutions and boycotts.

Like BDS efforts on many campuses, the leadership of the DSC took unprecedented steps to limit the expression of opposing views both before and during the DSC meeting. The Israeli academic boycott resolution was put on the DSC agenda just two weeks before the vote and the time allotted for discussion at the meeting was so limited that there could be no real exchange of ideas. The CUNY faculty letter expresses the wish “to make it absolutely clear that we will be vigilant against, and will not tolerate, any attempts to intimidate, threaten, harass, or enact reprisals of any sort against any of the students who have been involved with the DSC...” But there have been no threats against members of the DSC. What some faculty find so intimidating is really the threat of open discussion.

We are gratified that the chancellor of CUNY and the president of the Graduate Center have reaffirmed university policy against academic boycotts. Academic boycotts hinder the critical examination of real conflicts involving real people. They prolong conflict by nurturing entrenched prejudices and false hopes that one side’s objectives can be

achieved without the hard work of building mutual respect and trust and recognizing the humanity on all sides in a conflict. We therefore oppose the academic boycott of Israel and stand against efforts to abrogate our freedoms and stifle dialogue.

<http://dialoguenotboycotts.org/>

SYRACUSE UNIVERSITY—SEPTEMBER 2016:

After a number of faculty members at Syracuse University decried that their institution's Program for the Advancement of Research on Conflict and Collaboration (PARCC) joined with Tel Aviv University to host the conference "Transforming Intractable Conflicts: Their Restructuring and Reframing," a number of other Syracuse faculty declared their support for the conference and the principles of open debate and academic exchange.

We write to express our concern about a September 23 letter which we fear could call into question Syracuse University's commitment to the open exchange of ideas.

We appreciate that our colleagues had the right to publicly condemn an international conference then underway at the Maxwell School's Program for the Advancement of Research on Conflict and Collaboration (PARCC), but they fundamentally misunderstood the nature of the gathering. It was not devoted to the study of Israel or to the Israeli-Palestinian conflict. Rather, participants sought to analyze a range of factors (including political, economic, psychological, gendered, legal, historical, military/security, religious, media- and identity-driven forces) that sustain deep-seated inter-personal, local, national, and international conflicts.

The 31 conference participants from Syracuse, Israel, Oman, Turkey, and across the U.S.—many leaders in the field of conflict resolution—presented on a diverse array of conflicts, from the Haudenosaunee (Iroquois) effort to decolonize sacred space in central NY to conflict transformation in Northern Ireland and trauma in Syracuse communities of color. We regret that the signatories to the September 23 letter chose not to attend and would have warmly welcomed their participation.

BDS continues to face sustained opposition as reflected in the statements of over 250 university administrators including recently by SU's Vice Chancellor Michele Wheatly. The American Association of University Professors, Association of American Universities, National Association of Scholars and others have also determined that academic boycotts subvert and undermine the fundamental value of free inquiry and as such are not an appropriate means of advancing ideas within the academy.

We recommend that SU students learn about the BDS perspective. However, we oppose efforts to present BDS as an uncontested, single truth about Israel, the Israeli-Palestinian conflict, America's role in the world, or even America itself. On each of these topics, a rich and multidisciplinary scholarship offers alternative modes of representation. Our position is not that these arguments are necessarily more persuasive than those which BDS offers, but that using instruments of coercion to advance only one particular point of view and seeking to predetermine the outcome of what should be an open debate is a debasement of the academic enterprise.

Syracuse University has long partnered with universities outside the U.S. to provide educational opportunities for ourselves and our students. We look forward to continuing in that tradition by hosting scholars and students from the global community, including Israel, at future campus events.

<http://dailyorange.com/2016/10/su-faculty-express-concern-bds-letter-movement/>

APPENDIX 4B.

GUIDANCE FOR FACULTY AND ADMINISTRATORS ON PREVENTING AND ADDRESSING DISRUPTIONS OF SPEECH ON CAMPUS

I. PREVENTING DISRUPTIONS OF ISRAEL-RELATED SPEECH: SUGGESTED FACULTY ACTIONS

A. Plan Events with Confidence: While there is no way to make a completely reliable assessment prior to an event, faculty should familiarize themselves about the campus climate and conditions in order to effectively assess the needs for security and real-time responses. Faculty can also take advantage of the practical suggestions below:

- Faculty presiding over Israel-focused events should prepare as if they expect protest or disruption and be ready with a plan. This includes pre-program setup (e.g., notifying campus security), guidance for the program itself (how to respond effectively to disruption), and post-program follow-up.
- In the planning period before the event, do not work alone. Cultivate allies—sympathetic faculty members and their departments—and notify administrators ahead of time, including those who work in Student Affairs and in Equity, Diversity, and Inclusion offices. A broad base of support will prove helpful in the event of a disruption, especially if it becomes a controversial topic on social media or in other media outlets.
- Monitor the publicity by campus groups affiliated with the BDS movement to see whether any type of protest is planned. Be in touch with the AEN leadership—we can provide information about pre-planned BDS-affiliated events and even likely disruptions, which are often discussed and disseminated via open-source social media.
- Bring a copy of your university's student conduct code or any other relevant codes regarding freedom of expression to the event. Rather than waiting until the proceedings are interrupted, faculty should be proactive; when you introduce the event, remind students of the rules and regulations that govern their behavior at university-sponsored events and the consequences if they do not comply. Run the meeting with a firm hand from the front of the facility.¹

1 For example, the University of Michigan Standard Practice Guide on Freedom of Speech and Artistic Expression, which dates from the 1990s, provides the following guidance:

- Reiterate your support for the freedom of expression of protesters and encourage them to channel their energies into appropriate forms of protest: demonstrating outside an event, silent protest inside with signs or badges, and leafleting. Remind them that freedom of expression does not give them the right to silence others—and that this is a form of censorship.
- Urge students who come to the event to protest to stay for the event and listen to what the speaker/s have to say. Remind protesters that they are welcome to participate in the event by asking questions—even provocative ones. Many speakers who deal with issues related to Israel are used to challenging questions and intense discussions, and welcome a pushback to their arguments and central claims.
- Respond firmly to signs of disruption, issuing a warning about ceasing and desisting in disruptive action, and only then, after a warning, calling on campus police to intervene or turning decision-making over to security officials.
- Following a disruption, set up a meeting with the administration to discuss how the university plans to proceed. Make sure that you come with allies—other faculty, students, or outside groups. Bring this *Guide and Resource Book* to the meeting and be in touch with the AEN leadership team if you need help in creating a strategic action plan. Consider writing an op-ed for the school newspaper or another media outlet as a means of opposing the event disruption and beginning a campus dialogue about the need to promote viewpoint diversity on contentious and controversial topics. Outside groups, such as the Foundation for Individual Rights in Education (FIRE), work to uphold free speech and academic freedom and may also be of use to faculty members as a resource.²
- If the event proceeded without a disruption, be sure to be in touch with all of those who helped to make it a success. Let other faculty, administrators, and students know that you appreciate their efforts. Consider writing an essay or op-ed detailing what went right at the event and what students learned. And be sure to submit information for the monthly AEN Newsletter!

B. Set clear limits: Georgetown University faculty member Bob Lieber presided at an on-campus event sponsored on September 8, 2016 by the university's Center for Jewish Civilization in Gaston Hall. The event was a panel discussion under the title "Retrospective on Benjamin Netanyahu," and involved four panelists:

Within the confines of a hall or physical facility, or in the vicinity of the place in which a member of the University community, invited speaker, or invited artist is addressing an assembled audience, protesters must not interfere unduly with communication between a speaker or artist and members of the audience. This prohibition against undue interference does not include suppression of the usual range of human reactions commonly displayed by an audience during heated discussions of controversial topics. Nor does this prohibition include various expressions of protest, including heckling and the display of signs (without sticks or poles), so long as such activities are consistent with the continuation of a speech or performance and the communication of its content to the audience....

Protesters and other members of the University community, for their part, have an obligation not to abuse their rights of expression to harass or intimidate speakers in ways that unduly interfere with free expression or communication....

If any of the parties within the confines of the hall or physical facility interfere unduly with freedom of expression or communication, the organizers of the event or University representative must, if possible, put such parties on notice that they are interfering unduly with such rights. If the notified parties do not stop their undue interference, the organizers or University representative should proceed with those measures deemed necessary to stop it, which may include the physical removal of individuals from the area. Canceling, stopping an event, adjourning to another time or place, or allowing protracted interruption of a speech, meeting, or performance is deemed inconsistent with full respect for the rights of free expression and communication of those present. The overriding goal of the organizers or University representative during a disruption should be to reestablish with deliberate speed an atmosphere conducive to communication between the speaker or artist and the audience, and to full respect for the rights of all parties.

2 Foundation for Individual Rights in Education (FIRE) website: <https://www.thefire.org>.

Ambassador Dennis Ross; senior fellow at the Council of Foreign Relations Elliot Abrams; prominent Israeli historian Benny Morris; and Israeli journalist Natasha Misgovaya. The event attracted more than 500 people, and Lieber was prepared for the possibility of disruption. He wrote about the event,

I moderated the event in Gaston Hall and led off with a strong statement about the importance of academic freedom, the exchange of ideas, etc. I cited the U of Chicago statement, then paraphrased the GU Speech & Expression Code: i.e., GU encourages the open expression of ideas. You will have a chance for questions. But you may not prevent a speaker from speaking or the audience from hearing.³

He further observed:

The disruption was very brief. It came at the end of the moderated discussion among panelists ..., and it occurred just after I told the audience to line up at a floor microphone to ask questions.

At that point, a young woman began screaming about Palestinians, Zionist panelists, and genocide, and two students unfurled a banner reading, “Palestine From the River to the Sea.” The GU campus police, with whom we had coordinated before the event, swiftly removed the banner & its holders from the hall. From the podium, I calmly but forcefully stated that the woman’s interruption was utterly unacceptable, that she was in blatant violation of the University’s speech code in preventing a speaker from speaking & audience from hearing.

I stated that her reference to “genocide” was unacceptable and indeed obscene, and I then added, either leave now or get in line to ask a question—which she did a few minutes later (once again referencing Palestinians and genocide). Benny Morris responded calmly, firmly, and very effectively.

The actual disruption lasted no more than one minute in a nearly two-hour program. The protest gained no support from the audience, and both those present and university officials have told me they think it was a model in how to deal with potential speech disruptions. One of the keys to this was the firm statement at the outset of the event about the speech code. As a result, when the outburst did occur, it was in a context where the audience understood and was receptive to the rules and had no doubt the protesters’ behavior was unacceptable and in violation of the GU policy.⁴

II. DEVELOPING EFFECTIVE STUDENT CONDUCT CODES AND PROCEDURES

Mark G. Yudof, President Emeritus of the University of California system and a leading First Amendment scholar who chairs the Advisory Board of the Academic Engagement Network, emphasizes the importance of clear language about proscribed behaviors and the obligation of administrators to make code provisions broadly known. He also stresses the importance of prior communication and planning, of a clear chain of command specified in the provisions concerning who is responsible for what decisions and actions, and a straightforward

3 Ken Waltzer and Linda Maizels, “Preparations for Disruption,” message to AEN Faculty, September 13, 2016, based on email, Robert Lieber to Ken Waltzer, September 13, 2016.

4 Robert Lieber email to Ken Waltzer, September 13, 2016.

and agreed-upon plan of appropriate actions to be taken in real time by those who are empowered to decide and to act. Yudof stresses the need for consistent follow-through on enforcement, with appropriate actions carried out against clearly identified transgressors. He also highlights the value of periodic training and retraining of university staff as well as ongoing education of other community members, including new student leaders.

With these observations in mind, we offer the following recommendations to universities and colleges interested in developing, revising, or updating their student conduct codes and creating accompanying procedures that will permit effective action to protect free speech and minimize disruptions.

Our sense in reviewing codes and procedures at numerous universities and colleges is that the effectiveness of stated and intended policies is heavily conditioned by the general awareness and understanding of community members about the policies, the clarity of their explication by university officials, and broad knowledge among students about their applicability. The availability of appropriate training of administrators and public safety officials and the willingness of designated university officials to make the necessary judgments, to act in a timely manner, and to enforce them are critical factors.

- a. Notice and Awareness:** Universities and colleges must make all rules on free speech, harassment, and the treatment of speakers well known and available on their websites and in their handbooks and should actively publicize them in events such as orientation at the beginning of each academic year. Universities must also educate community members as to the crucial value of free speech to the university's mission and take due care to make the relevant rules well known. In addition, campus rules should clearly spell out that each student member of the community is expected to comply with the rules and with requests made by university officials.⁵ Finally, procedures developed to enforce the rules should be applicable equally to all events in a content-neutral manner.

Comment: Notice is a key concept here. Students need to be on notice as to the rules they are expected to follow and what are the procedures involved in heeding them. That is why the rules need to be highlighted at orientation, in student handbooks, in all dealings with registered student organizations, and in other effective ways. In addition, procedures for enforcement must be made clear in advance to community members.

- b. Consistency:** Procedures must be applied consistently, as far as practicable, so that there are clear expectations of applicable procedures and penalties for not following university conduct codes, including bars on the disruption of classes or of university events.
- c. Definitions:** University officials should create and follow a policy of defining what speech and protest actions “materially infringe upon the protected rights of others” or constitute “undue interference” or “disruption,” and how such speech and action will be handled.⁶ Suggested definitions are:
 - a. “Disruption” is defined as any behavior that seriously interferes with other students’ ability to engage in learning, whether in a classroom setting or in a university-sanctioned event and/or with the faculty, speaker, or staff member’s ability to provide instruction, information or service.⁷

5 See, e.g., <https://ufc.iu.edu/doc/policies/disruptive-students.pdf>

6 See, e.g., <http://studentaffairs.lehigh.edu/content/code-conduct>.

7 This definition is adapted from the Indiana University Bloomington’s Guidelines for Dealing with Disruptive Students in Academic Settings, <https://ufc.iu.edu/doc/policies/disruptive-students.pdf>

- b. “Harassment” is defined as a continuing course of conduct and systematic infringing or unwanted actions by a person or group of persons affecting specific individuals. It can involve verbal or non-verbal conduct and can include damage to property or even physical assault. It may take the forms of threats, insults, ridicule, or personal attacks. Isolated hate speech incidents, in the absence of other circumstances, normally does not constitute harassment.⁸
- d. **Who Can Host:** Registered Student Organizations (RSOs) are to be the only student organizations authorized to host events on campus. At the discretion of university officials, the number of non-campus guests at a campus event closed to the public may be regulated or limited.⁹
- e. **Notice by Student Organizations:** RSOs should inform designated university officials of events they wish to hold at least two weeks prior and should specify whether these events are open only to members of the university or also open to the public. They should provide the designated university official or officials with background information that clarifies the nature of the event, and they should address any potential likelihood that an effort to disrupt or to harass speakers or audience members at or before and after the event is likely to occur. If the responsible university official determines that the event is a “Special Event”—that is, an event likely to be subject to disruption or to harassment activities and, thus, likely poses significant security concerns—the university official shall inform campus police.
- f. **Restrictions on Amplified Sound:** The use of amplified sound should be restricted to designated speakers and designated times and locations. Otherwise, there may be substantial interference with education in classrooms, laboratory work, programs, and other university activities. Except as specified, students and others may not use amplified sound.¹⁰
- g. **Notice to Off-Campus Police:** The responsible university official shall also inform outside police of any “Special Event” that a reasonable person would conclude carries the possibility of disruptive or unsafe behavior. The cost of outside police presence at such an event normally is borne by the university.

Comment: The “reasonable person” standard is a legally accepted norm in this context and serves as a way of assessing appropriate standards of care.

- h. **Notice in Real Time to Disrupters:** If an audience member or members disrupt(s) an event, the responsible university official who has determined that this is a “Special Event” and who shall be present during the event, must ask the disrupter to stop, offering warning and giving notice that such behavior violates university policy. If the audience member(s) refuse to comply and continue(s) with such behavior, the university official shall direct campus security or regular police officers to ask the disruptive individual or group to leave.

8 This definition is based on the recently revised University of Texas at Austin code: <https://catalog.utexas.edu/general-information/appendices/appendix-c/speech-expression-and-assembly/>

9 The University of Chicago does this. See <https://studentmanual.uchicago.edu/student-life-conduct/responsibility-for-guests/>

10 The Supreme Court has ruled that restrictions on amplified sound, even in traditional public forums, are legal. See *Ward v. Rock Against Racism*, 491 U.S. 781 (1989).

Audience members who are students should understand that the university rule mandates complying with this request is that he/she/they *must* comply with this request.

The person in charge of the event and the responsible university official shall each avoid physical force, including any touching, during such incidents of disruption. In cases in which there is no anticipatory designation of a “Special Event” and such behavior develops spontaneously and is a surprise, the person in charge of the event shall read aloud the respective code provision that bars disruption, which should always be held ready and handy by event hosts and sponsors, offer warning, and summon campus police. If the audience member(s) still refuse to cease and desist or to leave, the campus or regular police shall escort the offender(s) out. Failure to comply may amount to criminal trespass and/or subject the individual(s) to university discipline.

Organizers ought also to think about organizing the question-and-answer period in a fashion that minimizes chances of disruption. In our experience, a very useful method is to limit questions to written queries gathered by volunteers at the end of the speaker(s)’ presentation.

Comment: Whether an audience member or group is materially “disrupting” or has “disrupted” the speaker will, of necessity, be a judgment call. The responsible university official in consultation with the person directing the event should again adhere to the reasonable person standard and shall offer the offenders warning and reasonable time to respond. Failure to respond should lead to enforcement of campus rules.

Disruption comes in many forms. It may include persistent heckling, chanting, excessive noise, physical disruption, the blocking of access, or demonstrations that make it very difficult or impossible for a speaker to speak or audience members to hear. Disruption does not include peaceful protest outside a room or hall that is housing the event, wearing armbands or signifying clothing inside the room or hall, or holding up signs or banners. Protest must be limited in time and must also be respectful of the rights of the speaker and audience members.

The University of Texas at Austin now rightly observes in its written rules and regulations that, except in the most extreme cases, interference and disruption are unavoidably “contextual.” Intentional physical interference with other persons is nearly always disruptive in any context. Interfering with traffic depends on the relation between traffic volume and the size of the passageway left open. Disruptive noise is the most contextual of all, dependent on the activity that is disrupted. Occasional heckling in the speaker’s pauses may not serve to disrupt a political speech, but persistent heckling that prevents listeners from hearing disrupts a political speech. We cannot escape relying on the judgment and fairness of university authorities in particular cases. These judgments should not at all be influenced by the viewpoints of those claiming disruption or allegedly doing the disrupting.¹¹

A responsible university official must not profile attendees. However, if an organization has announced, through social media, flyers, or otherwise, that it plans to disrupt an event and the members of the organization who have self-identified as members begin to disrupt an event, the responsible university official may ask all such members to leave without offering further warning. A responsible university official will have slightly wider latitude to act in private than in public universities.

11 University of Texas, Chapter 13: Speech, Expression, and Assembly, Subchapter 13–300. General Rules on Means of Expression Sec. 13–301. Disruption, Section b at <http://catalog.utexas.edu/general-information/appendices/appendix-c/speech-expression-and-assembly/>

- i. Universities and State and Federal Laws:** Campuses are subject to the laws of the relevant local and state jurisdictions and of the United States. Police officers will have sole charge over the enforcement of these respective laws at any campus event. Actions by outside police officers or civil or criminal cases filed in court do not affect the ability of the university to institute disciplinary procedures against any student who violates university rules and regulations or codes of conduct. It is important that students who violate such rules and regulations or conduct codes be subjected to appropriate discipline and that university administrators take the opportunity of such teachable moments to reiterate the university's commitment to free speech and appropriate and lawful behavior—to sustaining the university as a “free and ordered space.”
- j. Review:** Procedures for real-time response to efforts at disruption should be reviewed periodically and appropriate training related to such procedures made available to university officials called upon to decide and act in such instances. Training for university administrators is available from reputable organizations, some of which are referenced above and in Appendix V.

Comment: The disruption by protestors of a speech by Jerusalem Mayor Nir Barkat in early April 2016 at Seven Hills at San Francisco State University, as reported, was a clear example of a situation in which, although an appropriate conduct code existed (the San Francisco State student conduct code clearly bars “willful, material and substantial disruption or obstruction of a University-related activity” [item II3] and proscribes “participation in an activity that substantially and materially disrupts the normal operations of the University, or infringes on the rights of members of the University community” [item II4]) and, although administrators and campus police were well prepared and present at the event hosted in this case by the local Hillel, there was inexplicable hesitation to act by university personnel to enforce the conduct code. In this case, the interim Dean of Students thought that police should stand down and mistakenly read the situation as a matter of free speech. This was erroneous—a clear failure to enforce the code against material disruption—and the event could not take place as planned, denying to the speaker and audience members their rights. Demonstrators, it was said, “tried to eject the mayor.”¹²

President Leslie Wong later admitted this after commissioning a full outside investigation to determine what violations of campus policy occurred. The independent review submitted “makes exceptionally clear that the responsibility for the inadequate response prior to, during and following the event falls squarely on the shoulders of San Francisco State University administrators. On April 6, we failed our students—both the event attendees and the protesters—through multiple inactions.”¹³ In addition, he has committed to examining the university's planning and response mechanisms to better ensure that student events of this nature can occur without impediment in the future. A review of some of these changes appears in Appendix IV.

Comment: The University of Texas at Austin student conduct code views as misconduct any student who “behaves in a manner that impedes, interferes with, or disrupts any University teaching, research, administrative,

12 “Pro-Palestinian protesters interrupt Jerusalem mayor’s lecture at San Francisco State University,” *RT*, April 7, 2016 at <https://www.rt.com/usa/338794-protest-palestine-israel-mayor/>.

13 Letter from President Leslie Wong, September 1, 2016, with Independent Review Regarding April Event Summary Report of Findings, August 24, 2016 at http://president.sfsu.edu/sites/default/files/Letter%20from%20President%20Wong%209-1-16_0.pdf. See also Kenneth Waltzer, “What’s missing in SFSU report on the April shout-down of Jerusalem mayor?,” *J. The Jewish News of Northern California*, September 8, 2016 at <http://www.jweekly.com/article/full/78383/whats-missing-in-sfsu-report-on-the-april-shout-down-of-jerusalem-mayor/>

disciplinary, public service, learning, or other authorized activity” or that “behaves in a manner that threatens or endangers the health or safety of any student or employee of the University, or of visitors on the campus” or that “engages in harassment.”¹⁴ Concerning procedures, the University of Texas takes a hard line: “In the case of disruptive activity on the campus of the University, neither the dean of students nor the president nor any representative will negotiate or attempt to negotiate with any person or persons so engaged. When such a situation arises, the dean of students or the president, or their representative, will take immediate action to utilize all lawful measures to halt and eliminate any and all such disruptive activities that come to their attention...”¹⁵ This newly revised code follows the effort by student activists in November 2015 to interfere with an academic seminar sponsored by the Israel Institute. It appears, though there is no official corroboration, that the students responsible for the disruption were identified and disciplined. To the best of our knowledge, students in the San Francisco State incident were not identified or disciplined, which is a continuing source of community dissatisfaction.

Inevitably, there will be variations in student codes and procedures and in disruption policies across the myriad American campuses. But all public universities are bound by the federal constitutional requirements for freedom of expression, often bolstered by state constitutional provisions and statutes. Most leading private universities, through governing board rules or administrative actions, have voluntarily chosen to abide by the same strictures. It is critically important that the contextual variations, divergent traditions, and factual nuances not overwhelm the core commitments to freedom of expression and academic freedom. Counsel for the university should be involved in every step of the drafting and implementation process.

14 University of Texas, Chapter 11, Student Discipline and Conduct, Subchapter 11-404, General Misconduct, items a3, a4, a12, at <http://catalog.utexas.edu/general-information/appendices/appendix-c/student-discipline-and-conduct/>

15 Ibid., item b.

APPENDIX 4C.
SELECTED COMPLAINTS, INVESTIGATORY
LETTERS, RESOLUTION AGREEMENTS
AND SETTLEMENTS UNDER TITLE VI
OF THE CIVIL RIGHTS ACT OF 1964

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1. **Duke University and University of North Carolina** (OCR Complaint Nos. 11-19-2214 and 11-19-2215)
2. **New York University** (OCR Complaint No. 02-19-2174)
3. **Williams College** (OCR Complaint No. 01-19-2129)
4. **University of California, Los Angeles** (OCR Complaint No. 09-20-2016)
5. **University of Illinois, Urbana-Champaign**
6. **San Francisco State University:** *Mandel et al. v. Board of Trustees of the California State University et al.*, Case No. 3:17-CV-03511-WHO (N.D. Cal. 2018) and *Volk et al. v. Board of Trustees of the California State University et al.*, Case No. 18-563970 (Sup. Ct. Cal. 2018)

1. DUKE UNIVERSITY AND UNIVERSITY OF NORTH CAROLINA

(OCR Complaint Nos. 11-19-2214 and 11-19-2215)

Summary of OCR Complaints and Resolution

On March 22–24, 2019, the Duke University–University of North Carolina (UNC) Consortium for Middle East Studies presented a conference called “Conflict over Gaza: People, Politics and Possibilities.” According to the complaint filed with Office of Civil Rights (OCR), the conference, which took place on the UNC–Chapel Hill campus, evidenced a distinct anti-Israel bias by featuring speakers who demonized Israel for its alleged role in the humanitarian crisis in Gaza while including few, if any, perspectives from scholars who could have provided important context and offered competing viewpoints and perspectives. The complaint also argued that, in addition to its hostility to Israel, the UNC–Duke conference included a highly offensive and overtly antisemitic musical performance by a rapper named Tamer Nafar. A video of the performance, available on YouTube, shows Nafar telling the audience, “This is my anti-Semitic song” and urging attendees to “think of Mel Gibson ... [g]o that anti-Semitic.” The video also shows Nafar encouraging the audience to join him in singing “Oh! I’m in love with a Jew.”

The complaint against Duke and UNC claims that the response by the universities was inadequate in that they failed to strongly enough condemn the antisemitic performance by Nafar and also failed to condemn the clear anti-Israel bias of the conference even as they publicly defended the academic freedom of the scholars who organized it.

On December 3, 2019, Duke agreed to voluntarily resolve the complaint with OCR. Under the resolution, in which Duke expressly does not admit any wrongdoing or liability under Title VI, Duke agreed to take several measures to “affirm and bolster [its] commitment” to addressing unlawful harassment and discrimination. First, it agreed to issue a more robust public statement that it does not tolerate acts of discrimination or harassment, including antisemitic harassment or discrimination. Duke also agreed to revise its campus antidiscrimination policy to include, among the prohibited forms of discrimination, harassment based on antisemitism in any of its modern manifestations. In addition, Duke agreed that it would include a training module on antisemitism and antisemitic harassment as a component of any training it offers to, or requires of, students, faculty, and staff in respect to the revised antidiscrimination policy.

The Duke resolution agreement is similar to, and mirrors in all material respects, the agreement that University of North Carolina entered with OCR on October 14, 2019, about two months prior. Like Duke, UNC did not admit any wrongdoing or liability under Title VI.

- a) Zionist Organization of America (ZOA), Letter in Support of Title VI Claims Against Duke University and University of North Carolina (April 17, 2019): <https://zoa.org/wp-content/uploads/2019/04/Letter-to-Kenneth-Marcus-re-UNC-Duke-Gaza-conference-4-17-19.pdf>
- b) Duke University Resolution Letter from OCR to ZOA (December 10, 2019): <https://zoa.org/wp-content/uploads/2019/12/OCR-Resolution-Letter-to-ZOA-12-10-19.pdf>
- c) Duke University Resolution Agreement (December 3, 2019): <https://zoa.org/wp-content/uploads/2019/12/Duke-Resolution-Agreement-with-OCR-12-3-19.pdf>
- d) Letter from OCR to ZOA re: Resolution of UNC Complaint (November 6, 2019): <https://zoa.org/wp-content/uploads/2019/11/OCRs-resolution-letter-to-ZOA-11-6-19.pdf>
- e) UNC Resolution Agreement (October 14, 2019): <https://zoa.org/wp-content/uploads/2019/11/OCR-Resolution-Agreement-Complaint-No.-11-19-2215.pdf>

f) Selected media coverage:

Nadia Bey and Leah Boyd, “University settles discrimination complaint on Gaza conference,” *The Duke Chronicle* (January 30, 2020): <https://www.dukechronicle.com/article/2020/01/duke-university-discrimination-complaint-gaza-conference-israel-anti-semitism>

Elizabeth Redden, “Duke Resolves Anti-Semitism Complaint,” *Inside Higher Ed* (January 31, 2020): <https://www.insidehighered.com/quicktakes/2020/01/31/duke-resolves-anti-semitism-complaint>

Kate Murphy, “UNC resolves anti-Semitism case with feds that grew out of rapper’s performance,” *The News & Observer* (November 25, 2019): <https://www.newsobserver.com/news/local/education/article237764269.html>

Aaron Bandler, “UNC Chancellor ‘Heartbroken’ Over Anti-Semitic Song at Anti-Israel Conference,” *Jewish Journal* (April 12, 2019): <https://jewishjournal.com/news/united-states/296905/unc-chancellor-heartbroken-over-anti-semitic-song-at-anti-israel-conference/>

2. NEW YORK UNIVERSITY

(OCR Complaint No. 02-19-2174)

Summary of OCR Complaint Resolution

Filed with OCR in April 2019, the complaint details multiple incidents of alleged harassment of students based on their shared Jewish ancestry over a two-year period. The allegations centered on a series of actions taken by NYU’s Students for Justice in Palestine (SJP). As one of several examples cited in the complaint, in 2018, SJP reportedly tried to shut down a “Rave in the Park” celebration of Israel’s 70th birthday that had been organized by a pro-Israel student group. Members of SJP reportedly encouraged passersby to file a noise complaint and wiped their feet and stomped on an Israeli flag. One member of SJP reportedly set an Israeli flag on fire, and another forcibly seized a microphone from a pro-Israel student, causing injuries. The complaint acknowledged that the university had publicly opposed efforts to adopt BDS-linked Israel divestment and boycott initiatives, including those that had been advanced or supported by SJP, but faults NYU for failing to do enough to hold SJP accountable and instead awarding SJP with a presidential service award.

In September 2020, NYU agreed to resolve the complaint and OCR’s investigation by entering into a voluntary resolution agreement. Like the agreements in the Duke and UNC case, the NYU resolution required the university to issue a robust public statement against antisemitism; update its nondiscrimination and anti-harassment policy to include discrimination against Jews based on shared ethnicity and ancestry; and include antisemitism awareness training as a required component of any training modules given to students, faculty, and staff on the nondiscrimination and anti-harassment policy. The agreement requires NYU to host multiple town hall meetings with community members and to meet with Jewish student community and group leaders regarding the university’s commitment and actions to address antisemitism on campus. There are also requirements and benchmarks for monitoring and compliance.

One notable aspect of the NYU agreement is that it references and indeed adopts in several instances the International Holocaust Remembrance Alliance (IHRA) definition of antisemitism. Specifically, concerning the revision of its nondiscrimination and anti-harassment policy, NYU must “include a statement that the University prohibits discrimination on the bases of shared ancestry and ethnic characteristics, including antisemitism (as defined in Section (2)(a)(i) of the Executive Order on Combatting Antisemitism (Exec. Order No. 13899) . . .).” Section 2(a)(i) is the part of the EO that requires “all executive departments and agencies charged with enforcing Title VI” to “consider ... the [IHRA definition].” In addition, the NYU agreement contemplates that the training modules to be developed may incorporate the IHRA examples of antisemitism.

- a) Complaint filed on behalf of Adela Cojab (April 22, 2019): available at <https://jewishjournal.com/news/united-states/297574/pro-israel-students-file-complaint-against-nyu/>
- b) OCR Letter & Resolution Agreement (September 25, 2020): <https://jewishinsider.com/wp-content/uploads/2020/09/NYU-OCR-Resolution-Agreement-9-25-20-With-Watermark.pdf>
- c) Selected media coverage:
 - Aaron Bandler, “NYU Reaches Settlement With Dept. of Education Over Anti-Semitism Complaint,” *Jewish Journal* (October 1, 2020): <https://jewishjournal.com/news/united-states/322401/nyu-reaches-settlement-with-dept-of-education-over-anti-semitism-complaint/>
 - Kery Murakami, “NYU Settles Anti-Semitism Case,” *Inside Higher Ed* (October 2, 2020): <https://www.insidehighered.com/news/2020/10/02/new-york-university-settles-anti-semitism-case-education-department>
 - Melissa Weiss, “NYU settles with Education Department; will revise discrimination policy following antisemitic activity on campus,” *Jewish Insider* (September 30, 2020), <https://jewishinsider.com/2020/09/nyu-settles-with-education-department-will-revise-discrimination-policy-following-antisemitic-activity-on-campus/>

3. WILLIAMS COLLEGE

(OCR Complaint No. 01-19-2129)

- a) Complaint filed by David Bernstein (May 2, 2019): <https://www.scribd.com/document/412329548/Civil-rights-complaint-against-Williams-College-for-discrimination-against-Jewish-students>
- b) Department of Education Letter to Williams President Maud Mandel re: Resolution of the OCR Complaint & Investigation (July 25, 2019): <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/01192129-a.pdf>
- c) Resolution Agreement (July 3, 2019): <https://williamsrecord.com/wp-content/uploads/2019/09/Enclosure-01-19-2129-RA.pdf>
- d) Selected media coverage:
 - Aaron Bandler, “Education Department, Williams College Come to Resolution,” *Jewish Journal* (July 11, 2019): <https://jewishjournal.com/news/united-states/301452/education-department-concludes-williams-college-didnt-violate-federal-law-college-says/>
 - Jackson Richman, “Williams College reaches resolution with Department of Ed after nixing pro-Israel group,” *Jewish News Syndicate* (July 12, 2019), <https://www.jns.org/williams-college-reaches-resolution-with-department-of-ed-after-nixing-pro-israel-group/>
 - Jeremy Bauer-Wolf, “Pro-Israel Student Group ‘Silenced’ at Williams,” *Inside Higher Ed* (May 9, 2019): <https://www.insidehighered.com/news/2019/05/09/williams-college-student-government-rejects-pro-israel-group>
 - K. C. Johnson, “Separate and Unequal for Jewish Groups on Campus,” *Tablet Magazine* (May 20, 2019): <https://www.tabletmag.com/sections/news/articles/separate-and-unequal-on-campus>.
 - Letter from Mark G. Yudof, Michael Atkins and Miriam F. Elman to Williams College President Maud Mandel, published in *The Berkshire Eagle* (May 7, 2019) under the byline “Williams must accept pro-Israel student group”: https://www.berkshireeagle.com/mark-g-yudof-michael-atkins-and-miriam-f-elman-williams-must-accept-pro-israel-student/article_3a303439-d7b6-5cd7-b808-441bc893e87a.html

4. UNIVERSITY OF CALIFORNIA, LOS ANGELES (OCR Complaint No. 09-20-2016)

- a) Complaint filed by *StandWithUs* (October 7, 2019): <https://www.standwithus.com/ucla-titlevi-complaint>
- b) Letter from OCR to *StandWithUs* (January 3, 2020): https://46fc49e4-0bd9-4e5a-bf63-78204b4a07c9.usrfiles.com/ugd/46fc49_47f7a61293bc4bb1b0a681b96b4edeee.pdf
- c) Selected media coverage:
 Aaron Bandler, “Department of Education to Investigate StandWithUs Complaint Against UCLA,” *Jewish Journal* (January 9, 2020): <https://jewishjournal.com/news/united-states/309392/departments-of-education-to-investigate-standwithus-complaint-against-ucla/>

5. UNIVERSITY OF ILLINOIS, URBANA-CHAMPAIGN

- a) Summary of Complaint prepared by the Louis D. Brandeis Center (October 23, 2020): <https://brandeiscenter.com/wp-content/uploads/2020/10/Summary-of-Title-VI-Complaint.pdf>

Excerpt from Summary of Complaint (citations omitted):

Over the past five years, the Jewish and pro-Israel students at the University of Illinois at Urbana-Champaign (“UIUC”) have been subjected to a hostile environment of anti-Semitism. The anti-Semitism comes from both ends of the political spectrum: Jewish and pro-Israel students are peppered with swastikas by white supremacists on the extreme right while being labeled white supremacists by the extreme left. The situation has deteriorated to such an extent that in December 2019, the UIUC student body president circulated a university-wide email condemning the “epidemic of antisemitism on this campus.” This poisonous atmosphere has hindered the ability of Jewish and pro-Israel students to participate in UIUC’s classes and activities.

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin in educational institutions that receive federal funding. Title VI forbids discrimination against Jews on the basis of their “actual or perceived shared ancestry or ethnic characteristics.” “[W]hen the conduct is sufficiently severe, pervasive, or persistent so as to interfere with or limit a [Jewish] student’s ability to participate in or benefit from the services, activities, or opportunities offered by a school,” a Title VI recipient “must take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment, and prevent the harassment from recurring.” As recently clarified in Executive Order 13899, a Title VI recipient is legally obligated to “enforce Title VI against prohibited forms of discrimination rooted in anti-Semitism as vigorously as against all other forms of discrimination prohibited by Title VI.” Denying the Jewish people’s right to self-determination—i.e., anti-Zionism—is a form of anti-Semitism.

After numerous requests, UIUC, a recipient of federal financial assistance, has made some efforts to address some of the countless instances of hostility and discrimination against Jewish and pro-Israel students. But those efforts have been wholly inadequate. In fact, in some cases, UIUC staff members were complicit in fostering this hostility and discrimination. Title VI requires UIUC to recognize the seriousness of this problem, and devote the necessary resources to combat the scourge of anti-Semitism and anti-Zionism on its campus.

b) Selected media coverage:

Greta Anderson, “Jewish Students Claim Civil Rights Violations,” *Inside Higher Ed* (October 26, 2020): <https://www.insidehighered.com/news/2020/10/26/jewish-students-university-illinois-allege-anti-semitic-environment>

Elyssa Cherney, “Jewish groups allege an ‘alarming increase in anti-Semitism and anti-Zionism’ at University of Illinois’ Urbana-Champaign campus,” *Chicago Tribune* (Oct. 23, 2020): <https://www.chicagotribune.com/news/breaking/ct-university-of-illinois-urbana-champaign-anti-semitism-complaint-20201024-qz53rtyb35hh3ct2hvxbrsmofq-story.html>

6. SAN FRANCISCO STATE UNIVERSITY

(*Volk and Kern v. California State University Board of Regents and Mandel v. CSU*)

Summary of Complaints and Settlement Agreement

Two lawsuits—one in federal court and one in state court—were filed on behalf of a group of San Francisco State University (SFSU) students and members of the local Jewish community against the Board of Trustees of California State University (CSU), then-President Leslie Wong, and several other university officials and employees. The lawsuits alleged that SFSU has a long and extensive history of cultivating anti-Semitism and overt discrimination against Jewish students. The specific allegations centered on two incidents: the disruption of an April 2016 speech by the Mayor of Jerusalem, Nir Barkat, which shut down the speech and denied those present the opportunity to hear it, and the denial of equal participation in a “Know Your Rights” Fair on SFSU’s campus in February 2017 in which a group of Jewish students affiliated with Hillel claimed that they were intentionally excluded from hosting a table and providing information and resources to Jewish students concerned with anti-Semitism. The lawsuits alleged violations of the First Amendment, the Fourteenth Amendment (Equal Protection Clause), Title VI of the Civil Rights Act of 1964, and the California Unruh Civil Rights Act.

On March 20, 2019, the parties reached a landmark settlement resolving the claims in both lawsuits. Of particular note, per the agreement, CSU publicly recognized that Zionism is an integral part of Jewish identity. In addition, per the agreement, SFSU agreed to:

- Hire a Coordinator of Jewish Student Life within the Division of Equity & Community Inclusion,” and to dedicate suitable office space for this position
- “Retain an independent, external consultant to assess SFSU’s procedures for enforcement of applicable CSU system-wide antidiscrimination policies and student code of conduct”
- Assign “for a period of 24 months all complaints of religious discrimination under either EO 1096 or EO 1097 to an independent, outside investigator for investigation”
- “Allocate an additional \$200,000 to support educational outreach efforts to promote viewpoint diversity (including but not limited to pro-Israel or Zionist viewpoints) and inclusion and equity on the basis of religious identity (including but not limited to Jewish religious identity)”
- Engage in the SFSU process to allocate “space on the SFSU campus for a mural to be installed under the oversight of the Division of Equity & Community Inclusion, paid for by the University, that will be designed by student groups of differing viewpoints on the issues that are the subject of this litigation to be agreed by the parties (including but not limited to Jewish, pro-Israel, and/or Zionist student groups, should such student groups elect to participate in the process)”

- a) Second Amended Complaint, *Mandel et al. v. Board of Trustees of the California State University et al.*, Case No. 3:17-CV-03511-WHO (N.D. Cal. March 29, 2018): <https://www.dropbox.com/s/k2wiysksof4jfa3/Mandel%20et%20al%20v.%20SFSU%20-%20SAC.pdf?dl=0>
- b) Complaint, *Volk et al. v. Board of Trustees of the California State University et al.*, Case No. 18-563970 (Sup. Ct. Cal. January 30, 2018): <https://www.dropbox.com/s/lfl46xjlzpsesm/20180130%20Volk%2C%20et%20al.%20v%20BTCSU%2C%20et%20al.%20-%20Complaint%20%28State%20Case%29.PDF?dl=0>
- c) Settlement Agreement in *Volk and Kern v. CSU and Mandel v. CSU* (March 20, 2019): <https://www.dropbox.com/s/kwj4nx4a9x4yt20/Volk%20v%20CSU%20Final%20Signed%20Settlement.pdf?dl=0>
- d) Additional court filings available at the Lawfare Project website: <https://www.thelawfareproject.org/campus-discrimination/2018/4/12/rampant-discrimination-and-intimidation-of-jewish-students-at-san-francisco-state-university>
- e) San Francisco State University Statement regarding the settlement: <https://news.sfsu.edu/announcements/statement-regarding-volk-and-kern-v-csu-and-mandel-v-csu>
- f) Selected media coverage:
 - David Gerstman, “San Francisco State University Begins Complying With Terms of Settlement in Antisemitism Suit,” *The Algemeiner* (June 2, 2019): <https://www.algemeiner.com/2019/06/02/san-francisco-state-university-begins-complying-with-terms-of-settlement-in-antisemitism-suit/>
 - “Jewish students settle lawsuit against S.F. State University,” *JWeekly* (March 20, 2019): <https://www.jweekly.com/2019/03/20/jewish-students-settle-lawsuit-against-s-f-state-university/>
 - Brianna Smith, “California State University, San Francisco State University Settle Lawsuit with Pro-Israel Students,” *LegalReader.com* (March 22, 2019): <https://www.legalreader.com/california-state-university-san-francisco-state-university-settle-lawsuit-with-pro-israel-students/>

APPENDIX 4D.

SELECT UNIVERSITY STATEMENTS: POLICIES FOR RELIGIOUS ACCOMMODATIONS

SYRACUSE UNIVERSITY: RELIGIOUS OBSERVANCES POLICY (AMENDED 2014)

Syracuse University recognizes the diverse faith traditions represented among its campus community and supports the rights of faculty, staff, and students to observe according to these traditions.

All University offices are asked to be sensitive to the needs of faculty, staff, and students who are observing a religious holiday when scheduling meetings and events.

Deans, department chairs, and program directors are asked to make every effort to avoid scheduling meetings or events at times that would exclude faculty who are observing a religious holiday from participation.

Supervisors are asked to be supportive of staff members who request vacation or personal time to observe a religious holiday and to make every effort to avoid scheduling meetings or events at times that would exclude such staff members from participation.

Students are asked to consider that it is more difficult to arrange appropriate accommodations in some kinds of courses – for example, those that have certain kinds of laboratories or a significant experiential learning component – so students should consider their need for accommodation for religious observances as they plan their schedule each semester. Students should recall that not every course is offered every academic year and that the catalog indicates how frequently each course is offered.

Faculty are asked to make appropriate accommodation for students' observance needs by providing an opportunity to make up any examination, study, or work requirement that is missed because of an absence due to a religious observance, provided the instructor has been notified no later than the end of the second week of classes for regular session classes and by the submission deadline for flexibly formatted classes. No fees will be charged to the student for the costs incurred by the University for such make-up work. If a faculty member is unwilling or unable to make an appropriate accommodation, the student should consult his or her academic dean.

Syracuse University recognizes that the faith traditions observed by our diverse community include more holidays than can be captured adequately in a list. In addition, some observances vary by tradition and by country and are defined by the lunar calendar. However, to assist in identifying religious observance days, Hendricks Chapel has compiled a list of religious holidays that reflect a large proportion of the University community and that may or may not fall on University work and class days. The chapel also recommends consulting the more comprehensive Interfaith Calendar.

[https://policies.syr.edu/policies/university-governance-ethics-integrity-and-legal-compliance/
religious-observances-policy/](https://policies.syr.edu/policies/university-governance-ethics-integrity-and-legal-compliance/religious-observances-policy/)

UNIVERSITY OF MICHIGAN, OFFICE OF THE PROVOST: U-M GUIDANCE TO STUDENTS REGARDING CONFLICTS BETWEEN THE ACADEMIC AND RELIGIOUS CALENDARS

Although the University of Michigan, as an institution, does not observe religious holidays, it has long been the University's policy that every reasonable effort should be made to help students avoid negative academic consequences when their religious obligations conflict with academic requirements. Absence from classes or examinations for religious reasons does not relieve students from responsibility for any part of the course work required during the period of absence. Students who expect to miss classes, examinations, or other assignments as a consequence of their religious observance shall be provided with a reasonable alternative opportunity to complete such academic responsibilities. It is the obligation of students to provide faculty with reasonable notice of the dates of religious holidays on which they will be absent. Such notice must be given by the drop/add deadline of the given term. Students who are absent on days of examinations or class assignments shall be offered an opportunity to make up the work, without penalty, unless it can be demonstrated that a make-up opportunity would interfere unreasonably with the delivery of the course. Should disagreement arise over any aspect of this policy, the parties involved should contact the Department Chair, the Dean of the School, or the Ombudsperson. Final appeals will be resolved by the Provost.

http://www.provost.umich.edu/calendar/religious_holiday_guidance.html

ILLINOIS WESLEYAN UNIVERSITY, OFFICE OF MULTIFAITH ENGAGEMENT: MULTIFAITH AWARENESS

Illinois Wesleyan University affirms the religious and secular diversity of its students, faculty, and staff. In order to protect, encourage, and support this diversity, the Council on Religious Life and the Office of Multifaith Engagement at Evelyn Chapel offer this Multifaith Awareness Calendar so that we may all become better aware of the many holidays observed by members of the Illinois Wesleyan community.

Out of respect for this diversity—and because there are times when the academic calendar conflicts with these major holidays—faculty, staff and students are encouraged to refrain from scheduling campus events during times of major holidays (Eid al-Adha, Rosh Hashanah, Yom Kippur, Good Friday, Easter Sunday, for example).

Students are strongly encouraged to bring to the attention of their instructor any religious observances that conflict with required coursework at the beginning of each semester. Faculty members are requested to exercise reasonable flexibility in accommodating students with conflicts due to religious observance.

<https://www.iwu.edu/multifaith/MultiFaithCalendar.html>

UNIVERSITY OF WASHINGTON, OFFICE OF THE UNIVERSITY REGISTRAR: RELIGIOUS ACCOMMODATIONS POLICY

It is the policy of the University of Washington to reasonably accommodate students' religious observances in accordance with RCW 28B.137.010.

The law requires that educational institutions must develop policies to accommodate student absences to allow students to take holidays for reasons of faith or conscience or for organized activities conducted under the auspices of a religious denomination, church, or religious organization, so that students' grades are not adversely impacted by the absences. The law also requires that UW post information about its policy on its website, and that faculty include the policy or a link to the policy in course or program syllabi (sample language below).

Faculty must reasonably accommodate students who, due to the observance of religious holidays, expect to be absent or endure a significant hardship during certain days of the course or program. **“Reasonably accommodate”** is defined as coordinating with the student on scheduling examinations or other activities necessary for completion of the program and includes rescheduling examinations or activities or offering different times for examinations or activities.

Any student seeking reasonable accommodations must provide written notice through the Office of the University Registrar Religious Accommodations request process within the first two weeks of the beginning of the course, of the specific dates of absence due to religious accommodation. The OUR administers this process on behalf of the provost.

Students who have requested and been denied a religious accommodation and wish to file a complaint should contact the University Complaint Investigation and Resolution Office (UCIRO). UCIRO is responsible for investigating complaints that a University employee has violated the University's nondiscrimination and/or non-retaliation policies, including a failure to accommodate a student under this policy.

REQUIRED SYLLABUS STATEMENT LANGUAGE

State law requires faculty to include language about religious accommodations in syllabi. The following language closely mirrors that of the law itself and was developed in close collaboration with Faculty Senate and the AGs office.

Required Syllabus Statement Language: [DO NOT AMEND] "Washington state law requires that UW develop a policy for accommodation of student absences or significant hardship due to reasons of faith or conscience, or for organized religious activities. The UW's policy, including more information about how to request an accommodation, is available at Religious Accommodations Policy (<https://registrar.washington.edu/staffandfaculty/religious-accommodations-policy/>). Accommodations must be requested within the first two weeks of this course using the Religious Accommodations Request form (<https://registrar.washington.edu/students/religious-accommodations-request/>)."

<https://registrar.washington.edu/staffandfaculty/religious-accommodations-policy/>

NORTHWESTERN UNIVERSITY, OFFICE OF THE PROVOST: STATEMENT ON ACADEMIC ACCOMMODATIONS FOR RELIGIOUS HOLIDAYS (MAY 2013)

Although Northwestern University does not as an institution observe religious holidays, the academic calendar is designed to avoid conflicts with observed holidays, such as July 4, Memorial Day, Thanksgiving, New Year's Day, and Christmas. As the diversity of our community has increased, additional religious holidays now affect a significant number of students and faculty. Consistent with our commitment of creating an academic community that is respectful of and welcoming to persons of differing backgrounds, we believe that every reasonable effort should be made to allow members of the university community to observe their religious holidays without jeopardizing the fulfillment of their academic obligations.

In particular, we believe that:

- Faculty should provide course syllabi at the beginning of each term that specify dates of exams and due dates of assignments. Every effort should be made to avoid scheduling exams on religious holidays (A calendar of religious holidays will be maintained on the [Religious & Spiritual Life](#) website). It is the responsibility of students to review these syllabi as soon as they are distributed and to consult the faculty member promptly regarding any possible conflicts. Upon the timely request of students, faculty members should, whenever possible, reschedule exams and assignment deadlines that fall on religious holidays. In some cases, it may be advisable for the student to change sections or courses.
- Students should not be penalized for class absences because of religious holidays. Students should notify the faculty member of conflicts due to religious holidays well in advance of any anticipated absence. If asked, the student should provide accurate information about the obligations entailed in the observance of that particular holiday.
- Faculty should be permitted to reschedule class meetings that conflict with their observance of a religious holiday, assuring that appropriate advance notice is provided to both students and the department chairperson and/or dean.

In the past, issues such as those raised in this statement have been successfully handled by informal discussions among students, faculty, and administrators, when necessary. We hope and expect that such accommodations will continue to be made in the future. Should you require assistance in securing a religious accommodation, please contact the Office of the Provost at assoc-prov-undergrad@northwestern.edu. We note that every reasonable effort should be made to allow members of the university community to observe their religious holidays without jeopardizing the fulfillment of their academic obligations. In the event, that an individual feels they are being deprived of the opportunity to access the academic program due to the lack of a religious accommodation, the individual should report the matter to the Office of Equity at equity@northwestern.edu.

Holidays observed by many members of the university community include, but are not limited to: Rosh Hashanah; Yom Kippur; Sukkot; Passover; Shavuot; 'Id al-Fitr; 'Id al-Adha, and Good Friday. Information about these holidays and the dates of their observance is available on the [web page maintained by Religious & Spiritual Life](#). More detailed information is also available on this web site. Please note that Jewish holidays begin at sundown the evening before the date listed.

<https://www.northwestern.edu/provost/policies/accommodations-for-religious-holidays/>

THE UNIVERSITY OF MAINE, OFFICE OF EQUAL OPPORTUNITY: RELIGIOUS OBSERVANCES & PRACTICES

Our faculty, staff, and students are from varied religious and cultural backgrounds which serve to enrich and strengthen our community. Any event scheduled on a major religious or cultural holiday can send a message of insensitivity or exclusivity to staff and students who cannot participate that day due to their religious beliefs. Therefore, please avoid scheduling important meetings, exams, or other essential events on such dates whenever possible and to accommodate the observance of religious traditions for those staff and students who need to be absent for religious holidays throughout the year. Some information about major religious holidays may be found at the [University of Maine System Human Resources page](#). An extensive listing is online at the [Interfaith Calendar web site](#).

The university is required by state and federal law to make reasonable accommodations to the religious observances and practices of employees or prospective employees provided those accommodations do not result in an undue hardship. See, e.g., 41 C.F.R. §6-50.3 and MHRC Ch. 94-348, § 3.10(C)(DOC). Such accommodations might include a schedule change for an employee who regularly observes a particular Sabbath or religious holidays and who is conscientiously opposed to performing work or engaging in similar activity on such days. The resolution of these issues depends on the particular factual circumstances and involves a delicate balancing of an applicant or employee's religious needs with the degree of disruption imposed on the institution.

<https://umaine.edu/eo/disability-access/religious-observances-practices/>

UNIVERSITY OF KENTUCKY, ACADEMIC POLICIES: RELIGIOUS OBSERVATION ACCOMMODATIONS

As we strive to ensure that our students, faculty, and staff experience UK as a welcoming environment, we embrace the many aspects of diversity represented on campus and endeavor to be inclusive in the ways we live, learn, and work here. This involves respecting the religious diversity on campus. Throughout the academic year, members of our community observe various official holy days of their respective religions. Urging sensitivity to the importance of these days to those who observe, the campus should be reminded of the University Senate vote that established the following rule:

*“Students are responsible for notifying the Instructor of Record **in writing** of anticipated absences due to their observance of [major religious] holidays. Faculty shall give students the opportunity to make up work (typically exams or assignments) when students notify them that religious observances prevent the students from doing their work at its scheduled time. Faculty shall indicate in their syllabus how much advance notice they require from a student requesting an accommodation. Faculty may use their judgment as to whether the observance in question is important enough to warrant an accommodation, although the presumption should be in favor of a student's request. The Offices of Institutional Diversity, the Dean of Students, and the Ombud are available for consultation.”*

Thus, faculty are to be flexible in allowing student observers to make up school work missed on the official or commonly recognized high holy days. The [Interfaith Calendar](#) may be helpful in identifying the high holy days of various religions.

<https://www.uky.edu/ombud/religious-observation-accommodations>

**UNIVERSITY OF CALIFORNIA BERKELEY, OFFICE OF THE REGISTRAR:
ACCOMMODATION OF RELIGIOUS CREED (AUGUST 2010):**

In compliance with Education code, Section 92640(a), it is the official policy of the University of California at Berkeley to permit any student to undergo a test or examination, without penalty, at a time when that activity would not violate the student's religious creed, unless administering the examination at an alternate time would impose an undue hardship which could not reasonably have been avoided. Requests to accommodate a student's religious creed by scheduling tests or examinations at alternative times should be submitted directly to the faculty member responsible for administering the examination.

Reasonable common sense, judgment and the pursuit of mutual goodwill should result in the positive resolution of scheduling conflicts. The regular campus appeals process applies if a mutually satisfactory arrangement cannot be achieved.

A Religious Holidays Calendar (link is external) has been compiled and is now posted on the Registrar's website. This calendar will be updated on an annual basis to assist faculty and staff in course and activity planning and to reference in the accommodation process.

<https://sa.berkeley.edu/uga/religion>

APPENDIX 4E.

RECOMMENDED BOOKS FOR FURTHER READING

The following is a short selection of books written by AEN members and thought leaders who have been invited to speak at AEN events. While not a comprehensive reading list, it can be considered an introduction to the issues that impact AEN's work with faculty and university leaders on U.S. campuses. We invite you to reach out to the AEN leadership team for further recommendations on relevant scholarly reading materials.

ZIONISM

- Donna Robinson Divine*, *Exiled in the Homeland: Zionism and the Return to Mandate Palestine* (Austin: University of Texas Press, 2009)
- Gil Troy, *The Zionist Ideas: Visions for the Jewish Homeland Then, Now, Tomorrow* (New York: The Jewish Publication Society, 2018)
- David Graizbord*, *The New Zionists: Young American Jews, Jewish National Identity, and Israel* (New York: Lexington Books, 2020)
- Einat Wilf, *Winning the War of Words: Essays on Zionism and Israel* (Middletown, DE: 2020)

MODERN ISRAEL

- Philip Carl Salzman* and Donna Robinson Divine*, *Post-Colonial Theory and the Arab-Israeli Conflict* (New York: Routledge, 2008)
- Ron E. Hassner*, *War on Sacred Grounds* (Ithaca: Cornell University Press, 2009)
- Miriam F. Elman*, Oded Haklai, and Hendrik Spruyt, eds. *Democracy and Conflict Resolution: The Dilemmas of Israel's Peacemaking* (Syracuse: Syracuse University Press, 2014)
- Ilan Troen* and Rachel Fish*, eds. *The Essential Israel: Essays for the 21st Century* (Bloomington: Indiana University Press, 2017)
- Rachel S. Harris*, ed. *Teaching the Arab-Israeli Conflict in the College Classroom* (Detroit: Wayne State Press, 2019)
- Alan Dowty*, ed. *The Israel/Palestine Reader* (Cambridge, UK: Polity Press, 2019)
- Shmuel Rosner and Camil Fuchs, *#IsraeliJudaism: Portrait of a Cultural Revolution* (Jerusalem: The Jewish People Policy Institute, 2019)

ANTI-ZIONISM AND ANTISEMITISM

- Jeffrey Herf*, ed. *Anti-Semitism and Anti-Zionism in Historical Perspective: Convergence and Divergence* (London: Routledge, 2007)
- Alvin Rosenfeld*, ed. *Deciphering the New Antisemitism* (Bloomington: Indiana University Press, 2013)
- Alvin Rosenfeld*, ed. *Resurgent Antisemitism; Global Perspectives* (Bloomington: Indiana University Press, 2015)
- Anthony McElligott and Jeffrey Herf*, eds. *Antisemitism Before and Since the Holocaust: Altered Contexts and Recent Perspectives* (London: Palgrave Macmillan, 2017)
- Eunice G. Pollack*, ed. *From Antisemitism to Anti-Zionism: The Past & Present of a Lethal Ideology* (Boston: Academic Studies Press, 2017)
- Deborah Lipstadt*, *Antisemitism: Here and Now* (New York: Schocken, 2019)
- Bernard Harrison*, *Blaming the Jews: Politics and Delusion* (Indiana: Indiana University Press, 2020)

BDS AND ISRAEL DELEGITIMIZATION ON CAMPUS

- Cary Nelson* and Gabriel Noah Brahm*, eds. *The Case Against Academic Boycotts of Israel* (Chicago and New York: MLA Members for Scholars Rights, distributed by Wayne State University Press, 2014)
- Andrew Pessin* and Doron S. Ben-Atar*, eds. *Anti-Zionism on Campus: The University, Free Speech, and BDS* (Bloomington: Indiana University Press, 2018)
- Cary Nelson*, *Israel Denial: Anti-Zionism, Anti-Semitism, & the Faculty Campaign Against the Jewish State* (Washington, DC: Academic Engagement Network and Bloomington: Indiana University Press, 2019)
- Donna Robinson Divine*, Miriam F. Elman* and Asaf Romirowsky, eds. *Word Crimes: Reclaiming the Language of the Israeli-Palestinian Conflict* (Bloomington: Indiana University Press, 2019)
- Richard Landes*, ed. *Salem on the Thames: Moral Panic, Anti-Zionism and the Triumph of Hate Speech at Connecticut College* (Boston: Academic Studies Press, 2020)
- Kenneth Stern*, *The Conflict over the Conflict: The Israel/Palestine Campus Debate* (Toronto: New Jewish Press, 2020)
- Cherryl Smith*, *Framing Israel: A Personal Tour of Media and Campus Rhetoric* (New York: RVP Press, 2020)
- Corinne Blackmer*, *Queering Anti-Zionism: LGBT Academic Boycott, Divestment, and Sanction Activism* (Madison: University of Wisconsin Press, forthcoming 2021)

FREE SPEECH AND ACADEMIC FREEDOM

- Lee C. Bollinger and Geoffrey R. Stone, *The Free Speech Century* (Oxford: Oxford University Press, 2018)
- Jonathan Marks*, *Let's Be Reasonable: A Conservative Case for Liberal Education* (Princeton: Princeton University Press, 2021)

*Current AEN Member

APPENDIX 4F.

PROGRAMS AND RESOURCES

The following programs and resources are available for faculty and university leaders who wish to engage more extensively on issues related to modern Israel, contemporary antisemitism, countering BDS and anti-Israel delegitimization, and promoting free speech, academic freedom, and viewpoint diversity on campus and within society.

I. AEN PROGRAMS AND RESOURCES

Members of the Academic Engagement Network (AEN) have access to a variety of AEN-sponsored resources that aim to support and facilitate their work on campuses:

Micro-Grants Program: AEN micro-grants are available to AEN members in amounts of up to \$4,000 to support relevant educational or professional development initiatives on campus. Examples of micro-grant-funded initiatives include (but are not limited to) campus events and programming, including symposia, panels, speakers, performances, and film series; professional development activities, such as developing courses or seminars for students or fellow faculty; new scholarly or research exchanges with Israeli faculty and institutions; and subventions to assist publication of academic work relevant to AEN's mission.

<https://academicengagement.org/microgrants-application/>

Speakers Bureau: AEN's Speakers Bureau consists of AEN members with expertise in specialized areas who are available to make subsidized visits to campuses through AEN member invitations. Their areas of expertise include the history of the BDS movement in academia; Israeli history, society, and politics; antisemitism and anti-Zionism; strategies to counter the BDS narrative; and many other topics relevant to AEN's agenda. If invited by an AEN member, each speaker will receive a \$1,000 honorarium from AEN for an engagement consisting of a public talk and a participatory session with students and/or faculty in a class, seminar, or other small group setting.

<https://academicengagement.org/speaker-information/>

Regional Short Courses: AEN's regional short courses provide an opportunity for AEN members to learn more about contemporary Israel, develop strategies related to BDS on campus, and network with other interested faculty. The purpose of the course is to bolster the knowledge and skill set of AEN members who can then be active as regional leaders in AEN's efforts to respond to BDS and similar challenges on their campuses. These interactive, academically immersive 3½-day courses are residence-based and limited to 15 to 20 participants per course, with reasonable travel and stay costs paid for by AEN.

<https://academicengagement.org/aen-regional-short-course/>

Webinar Series: AEN’s webinar series, launched in Spring 2020, features leading scholars, experts, and practitioners on issues related to AEN’s mission, including countering Israel delegitimization and antisemitism on campus, supporting academic freedom and free speech, and promoting rigorous discussion of contemporary Israel.

<https://academicengagement.org/webinar-series/>

Pamphlet Series: AEN’s pamphlet series addresses a diverse range of relevant topics through original essays and adapted articles, lectures, and speeches. Authors include AEN members and other noted scholars and thought leaders.

<https://academicengagement.org/pamphlets/>

Research Paper Series: AEN’s Research Paper Series allows AEN members to write and disseminate original research on topics relevant to AEN’s mission before they are formally published in peer-reviewed academic journals and in university presses. “Not in Kansas Anymore: Academic Freedom in Palestinian Universities,” by AEN member Cary Nelson, Professor Emeritus at the University of Illinois, Urbana-Champaign, is the first paper in the series.

<https://academicengagement.org/research-paper-series/>

II. OTHER RESOURCES FOR FACULTY AND UNIVERSITY LEADERS

Academic Affiliation with the University of Haifa: There is a standing invitation for all university faculty members (including members of AEN) to become Affiliated Professors at the University of Haifa, part of a movement to oppose attempts to boycott Israeli institutions. By affiliating with an Israeli university, faculty convey this message to would-be boycotters: “If you boycott Israeli academia, you are boycotting me.”

<http://academicengagement.org/wp-content/uploads/2019/09/Application-Affiliated-Professor.pdf>

Academic Exchange: This organization, which seeks to deepen understanding of Israel and the Middle East within the international academic community (particularly among scholars in Political Science, International Relations, and Law), sponsors conferences and missions to Israel.

<http://academicexchange.com/>

AJC Project Interchange: The American Jewish Committee’s Project Interchange brings diverse global thought leaders, including university administrators, on educational trips to Israel.

<https://www.ajc.org/projectinterchange>

JCRC-NY Faculty Engagement Program: This program, sponsored by the Jewish Community Relations Council of New York and offered to scholars in the New York area, features courses and seminars, as well as a study trip to Israel focused on peacebuilding.

<https://www.jcrcny.org/what-we-do/israel-international-affairs/faculty-engagement-program/>

Jewish National Fund (JNF) Faculty Fellowship Program: The JNF organizes faculty trips to Israel to link scholars from diverse disciplines with their Israeli counterparts at major institutions for the purpose of initiating academic exchanges and collaborations.

<http://www.ff2israel.org/index.php>

ISGAP-Oxford Summer Institute on Curriculum Development in Critical Antisemitism Studies: The Institute for the Study of Global Antisemitism and Policy (ISGAP) offers a two-week seminar for faculty, doctoral, and post-doctoral students on contemporary antisemitism at Oxford University.
<https://isgap.org/summer-institute/>

Israel Action Network (IAN): IAN, sponsored by the Jewish Federations of North America, assists faculty and graduate students in responding to academic boycotts, and organizes multiple trips to Israel.
<http://israelactionnetwork.org>

Summer Institute for Israel Studies at Brandeis University: The Schusterman Center's Summer Institute for Israel Studies consists of a residential seminar at Brandeis University and a study tour in Israel to support the teaching of Israel on college and university campuses.
<https://www.brandeis.edu/israel-center/siis/index.html>

Tel Aviv University Workshop on Israel and the Middle East: The Moshe Dayan Center for Middle Eastern and African Studies at Tel Aviv University sponsors an academic workshop and travel program on Israel and the Middle East for faculty members in Middle East Studies.
<http://dayan.org/content/tau-workshop-israel-and-middle-east>

United States Holocaust Memorial Museum Fellowships: The USHMM sponsors residential fellowships for scholars conducting research and writing on the Holocaust, as well as contemporary antisemitism.
<https://www.ushmm.org/research/competitive-academic-programs>

III. ONLINE ACADEMIC RESOURCES

The following online resources, organized by academic institutions and non-profit organizations, provide extensive information on modern Israel, contemporary antisemitism, countering BDS and anti-Israel delegitimization, and promoting free speech, academic freedom, and viewpoint diversity on campuses and within society.

A. ISRAEL STUDIES-RELATED RESOURCES

Center for Israel Education (CIE): Based at Emory University, the CIE includes resources and teaching tools – including a detailed website, in-person consultations and workshops, webinars, and other on-line learning opportunities – for learning more about contemporary Israel.
<https://israeled.org>

Israel and the Academy: Israel and the Academy, whose advisory board includes 14 AEN faculty members, is an online resource that aims to enhance understanding of Israeli history and society, aspects of the Israeli-Palestinian conflict, the history of the BDS movement within academia, and strategies to counter common anti-Israel arguments. The site also collates a variety of syllabi on contemporary Israel.
www.israelandtheacademy.org

Israel Institute: The Israel Institute works with academic, research, and cultural institutions to enhance the study of modern Israel in the United States and around the world by providing a variety of resources for teaching and research. One unique component of the Israel Institute's work is creating platforms for Israeli academics and artists to teach about Israel in the United States, Europe, and Asia.

<https://www.israelinstitute.org>

Schusterman Center for Israel Studies Research Guide: This guide collates a wide range of resources on Israeli history, society, politics, and culture.

https://guides.library.brandeis.edu/schusterman_home

B. ANTISEMITISM-RELATED RESOURCES

Anti-Defamation League (ADL): The ADL is a leading anti-hate organization, with a mission to combat antisemitism and all other forms of hatred and bigotry; monitor and expose antisemitism, extremism, and terrorism; deliver anti-bias education; and secure justice and fair treatment for all.

<https://www.adl.org/>

Antisemitism Studies: A new scholarly periodical published by the Canadian Institute for the Study of Antisemitism (CISA). Multiple AEN faculty members serve on its editorial board.

<http://antisemitismstudies.com/index.html>

The Journal of Contemporary Antisemitism: This is one of the few journals exclusively dedicated to the analysis of antisemitism; it focuses on the multiple and changing manifestations of antisemitism in the contemporary world—including, but not limited to, antisemitism in the Islamic world, in Europe, on the left and the right of the political spectra, secular antisemitism, antisemitism in the church, and anti-Zionism.

<https://journals.academicstudiespress.com/index.php/JCA>

The Institute for the Study of Contemporary Antisemitism at Indiana University (ISCA): ISCA, led by AEN members Alvin Rosenfeld and Günther Jikeli, focuses on high-level scholarly research into present-day manifestations of anti-Jewish animosity. ISCA contributes to the scholarly debate on contemporary antisemitism by hosting a major conference annually for international scholars and through the Indiana University Press *Studies in Antisemitism Series*.

<https://isca.indiana.edu/>

The Institute for the Study of Global Antisemitism and Policy (ISGAP): The Institute's mission is to explore the subject of contemporary antisemitism within a comprehensive, interdisciplinary framework from an array of approaches and perspectives as well as global, national, and regional contexts.

<http://isgap.org/>

United States Holocaust Memorial Museum (USHMM): The museum website offers comprehensive information on contemporary antisemitism and Holocaust denial.

<https://www.academicstudiespress.com/journals/jca>

C. SELECT ORGANIZATIONS WORKING TO COUNTER BDS ON CAMPUS

Alliance for Academic Freedom (AAF): Members of the AAF are progressive scholars and academics who oppose anti-Israel boycotts while promoting academic freedom and Israeli-Palestinian dialogue.

<http://thirdnarrative.org/community/campus/aaf/>

Alums for Campus Fairness (ACF): ACF mobilizes alumni across the United States to press their alma maters to provide a safe and welcoming environment for students and faculty who feel a connection to Israel as well as a comprehensive education with respect to Israel.

<https://www.campusfairness.org>

AMCHA Initiative: The AMCHA Initiative is a non-profit organization dedicated to investigating, documenting, educating about, and combating antisemitism at institutions of higher education in America.

<http://www.amchainitiative.org>

CAMERA on Campus: CAMERA on Campus provides guidance to student leaders in finding and connecting with speakers or films, planning and creating events, funding for student groups, and addressing Middle East distortions in campus publications, fliers, rallies, and classroom teaching.

<https://cameraoncampus.org/>

Hillel International: Hillel is the largest Jewish student organization in the world. It sponsors numerous initiatives focused on Israel education and advocacy, and has also launched a Campus Climate Initiative (CCI), which provides training to campus administrators to ensure a positive campus climate in which Jewish and pro-Israel students feel comfortable expressing their identity and values, free of harassment, hostility, or marginalization.

<https://www.hillel.org/>

Israel on Campus Coalition (ICC): The ICC unites pro-Israel organizations that operate on campuses across the United States by coordinating strategies, providing educational resources, and sharing in-depth research. Each year, it sponsors the ICC Fellowship, which provides dozens of college students with leadership training, collaboration with ICC professionals, and a stipend.

<https://israelcc.org/>

Lawfare Project: The Lawfare Project is a global network of legal professionals who contribute skills, time, and expertise to defending the civil and human rights of the Jewish people and pro-Israel community, and to fighting discrimination.

<https://www.thelawfareproject.org/>

The Louis D. Brandeis Center for Human Rights Under Law: The Brandeis Center is a non-partisan organization whose mission is to advance the civil and human rights of the Jewish people and promote justice for all.

<https://brandeiscenter.com/>

Scholars for Peace in the Middle East (SPME): SPME's mission is to inform, motivate, and encourage faculty to use their academic skills and disciplines on campus, in classrooms, and in academic publications to develop effective responses to antisemitic and anti-Zionist rhetoric within academia.

<http://spme.org>

Stand With Us: Stand With Us is an international and non-partisan Israel education organization that provides students and communities with leadership training and educational programs. It conveys information through social media, print and digital materials, films, weekly newsletters, and missions to Israel.

<https://www.standwithus.com/>

D. SELECT ORGANIZATIONS PROMOTING CAMPUS FREE SPEECH AND VIEWPOINT DIVERSITY

Academic Freedom Alliance: The Academic Freedom Alliance is a newly formed, nonpartisan organization advocating for the right of faculty members at colleges and universities to speak, instruct, and publish without fear of sanction or punishment. Many AEN faculty members are among its founding members.

<https://academicfreedom.org/>

American Council of Trustees and Alumni (ACTA): ACTA works with alumni, donors, trustees, and education leaders across the United States to support liberal arts education, uphold high academic standards, and safeguard the free exchange of ideas on campus.

<https://www.goacta.org>

Bipartisan Policy Center: The Bipartisan Policy Center is a Washington, DC–based think tank that actively fosters bipartisanship by combining the best ideas from both parties to promote health, security, and opportunity for all Americans.

<https://bipartisanpolicy.org/>

Foundation for Individual Rights in Education (FIRE): FIRE promotes the individual rights of students and faculty members at America's colleges and universities, including freedom of speech, freedom of association, due process, legal equality, religious liberty, and sanctity of conscience; educates students, faculty, alumni, trustees, and the public about challenges to these rights on campus; and provides the means to preserve them.

<https://www.thefire.org>

Heterodox Academy: Heterodox Academy seeks to improve the quality of research and education in universities by increasing open inquiry, viewpoint diversity, and constructive disagreement among faculty, students, and guests.

<https://heterodoxacademy.org/>

National Center for Free Speech and Civic Engagement: The center explores how the fundamental democratic and academic principles of free speech and civic engagement should enrich the discovery and transmission of knowledge in America's colleges and universities.

<https://freespeechcenter.universityofcalifornia.edu/>



Academic
Engagement
NETWORK