



Hon. Catherine E. Lhamon  
Assistant Secretary for Civil Rights  
U.S. Department of Education

January 16, 2024

Re: Reiterating call to reject IHRA and its underlying conflation of anti-Zionism and antisemitism that is causing severe anti-Palestinian racism

Dear Assistant Secretary Lhamon,

We, the undersigned civil rights organizations, write to reiterate<sup>1</sup> our strong objection to the International Holocaust Remembrance Alliance (IHRA) working definition of antisemitism

<sup>1</sup> Palestine Legal, along with 16 civil rights organizations, sent a letter to your office in August 2022, flagging our concerns that the IHRA definition runs afoul of the First Amendment and perpetuates anti-Palestinian racism.

and its accompanying “contemporary examples of antisemitism.” We urge you not to rely on or refer to IHRA or any similar definition or rationale in your rulemaking,<sup>2</sup> policy guidance,<sup>3</sup> or enforcement decisions.<sup>4</sup> A rule or policy which further codifies the use of this definition would infringe on bedrock First Amendment protections, reinforce anti-Palestinian racism, and contravene the purpose of Title VI of the Civil Rights Act to protect vulnerable student populations from discrimination and harassment.

This request is more urgent in the current moment when Palestinians and their allies are facing unprecedented backlash and bigotry for opposing Israel’s ongoing genocide in Gaza and pogrom-like attacks in the occupied West Bank that have killed more than 22,000 Palestinians since October. The targeting of Palestinians and allied students is frequently bolstered by the same conflation of criticism of Israel or opposition to Zionism with antisemitism that is at the heart of the IHRA definition, and is premised on racist stereotypes of Palestinians, Arabs and Muslims being inherently antisemitic, violent, and threatening. It also ignores the grievances that are the focus of critiques of and protests against Israel.

As described in the examples provided in an August 2022 letter from civil and constitutional rights groups,<sup>5</sup> the invocation of IHRA and similar definitions by anti-Palestinian groups has resulted in: disruptions, including years-long investigations of faculty and student speech that poison the environment of academic freedom; widespread censorship of speech on serious matters of foreign policy and racial justice; frivolous lawsuits draining university and community resources; students denied the ability to mourn in public; scholarships threatened; courses interrupted or canceled; students unable to participate in student government; the exclusion of Palestine in curricula; and severe stress and mental health impacts from all of the above being

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Letter from Palestine Legal et al. to Office for Civil Rights, “Re: The IHRA definition censors free speech and disrupts the education of Palestinian students and their allies,” (Aug. 31, 2022), <https://static1.squarespace.com/static/548748b1e4b083fc03ebf70e/t/63b6de30db689e6788acce6/1672928817287/Civil+Rights+Orgs+Letter+to+OCR+8-31-22.pdf> [hereinafter August 2022 coalition letter].

<sup>2</sup> Specifically, we urge you not to rely on the IHRA definition or similar definitions in the draft rule your office is formulating in response to Executive Order 13899, issued by former President Trump on December 11, 2019. Exec. Order No. 13899, 84 Fed. Reg. 68779 (Dec. 11, 2019).

<sup>3</sup> Statements made by administration officials suggest a dangerous conflation between speech critical of Israel and antisemitism, raising serious concerns that its policies and practices will infringe on First Amendment rights and further exacerbate anti-Palestinian, anti-Arab, and Islamophobic bigotry. See, e.g., Peter Baker, *White House disavows U.S. Islamic Group after Leader’s Oct. 7 remarks*. THE NEW YORK TIMES (Dec. 8, 2023), <https://www.nytimes.com/2023/12/08/us/politics/white-house-cair-nihad-awad.html> (quoting White House officials condemning as antisemitic remarks about Palestinian resistance to Israel’s violent occupation of their lands).

<sup>4</sup> OCR has announced the opening of multiple investigations into allegations of antisemitic harassment at universities or K-12 institutions since October 7. See, e.g., OCR, *U.S. Department of Education’s Office for Civil Rights Announces List of Open Title VI Shared Ancestry Investigations of Institutions of Higher Education and K-12 Schools*, (Nov. 16, 2023), <https://www.ed.gov/news/press-releases/us-department-educations-office-civil-rights-announces-list-open-title-vi-shared-ancestry-investigations-institutions-higher-education-and-k-12-schools>. Anti-Palestinian groups filed complaints with OCR against some of these same institutions, explicitly relying on the IHRA definition to attack expression in support of Palestinians and their rights. See Matt Egan, *Civil Rights Complaints allege UPenn and Wellesley allowed antisemitism to “run rampant”* CNN (Nov. 10, 2023), <https://edition.cnn.com/2023/11/10/business/brandeis-civil-rights-lawsuit-penn-wellesley/index.html?ref=biztoc.com> (describing the Brandeis Center’s complaint against the University of Pennsylvania alleging that a Palestinian literature festival had contributed to a hostile environment for Jewish students). In pursuing these investigations, OCR must reject these efforts.

<sup>5</sup> August 2022 coalition letter, *supra* note 1.

exacerbated by schools' lack of response to this defamatory and racialized harassment against students.

In the appendix to this letter, we offer additional examples of how the IHRA definition has contributed to the censorship of expression in support of Palestinian rights and the rise of anti-Palestinian racism. While most of the included examples pre-date the surge in attacks on Palestinian and allied students since October 7, they illustrate the material consequences the IHRA definition has on the constitutional and civil rights of Palestinians and those expressing support for Palestinian rights at educational institutions.

Since October 7 and the start of the latest wholesale assault on Gaza, violence and repression against Palestinians, Arabs, and Muslims in the U.S have increased exponentially.<sup>6</sup> Schools and universities have failed to address, and in some instances, have actively contributed to this hostile and chilling environment for Palestinians and their allies. They have censored or punished expression in support of Palestinian rights, discriminated against Palestinian and allied students by refusing them the same recognition or services given to Israeli and Israeli allied students, and failed to address complaints about harassment, discrimination, assaults, and severe doxing. To justify their actions, schools have frequently relied on false accusations of antisemitism that conflate expressions of Palestinian identity and solidarity with anti-Jewish animus.

For example, on October 26, Barnard president Laura Ann Rosenbury sent out a campus-wide message stating, "I am appalled and saddened to see antisemitism and anti-Zionism spreading throughout Barnard and Columbia."<sup>7</sup> In doing so, Rosenbury equated opposition to Zionism, a political ideology,<sup>8</sup> with actionable harassment based on a protected characteristic. Students at

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<sup>6</sup> Palestine Legal, the Arab American Anti-Discrimination Committee, and the Center for Constitutional Rights wrote to your office on October 31, 2023 to alert you to this alarming rise in repression and to urge you to take urgent special measures to protect Palestinian, Arab, and Muslim students. Palestine Legal, Arab American Anti-Discrimination Committee, Center for Constitutional Rights, "OCR must act to address rise of anti-Palestinian and Islamophobic racism," (Oct. 31, 2023), <https://static1.squarespace.com/static/548748b1e4b083fc03ebf70e/t/65416bd823a85315b4d85402/1698786265201/2023.10.31+OCR+Letter.pdf>. Since then, the backlash against Palestinians and their allies has grown more severe. See, e.g., Hadas Their, *College Administrations Are Failing Their Palestinian and Jewish Students*, THE NATION, (Nov. 22, 2023) [https://www.thenation.com/article/activism/university-protests-antisemitism-islamophobia/tnamep/@pal\\_legal](https://www.thenation.com/article/activism/university-protests-antisemitism-islamophobia/tnamep/@pal_legal), Twitter (Dec. 15, 2023, 12:52PM), [https://x.com/pal\\_legal/status/1735719573318668768?s=20](https://x.com/pal_legal/status/1735719573318668768?s=20) (describing recent incidents of repression among the 1,000 requests for legal support received by Palestine Legal since October 7). See also Bill Hutchinson, *Palestinian-American Student issues message after he and 2 friends shot in Vermont*, ABC NEWS, (Nov. 28, 2023), <https://abcnews.go.com/US/palestinian-student-wounded-vermont-shooting-breaks-silence-message/story?id=105220579>; Sophie Hauck, *Campus police arrested 57 at pro-Palestine sit-in at UMass Amherst*, WBUR, (Oct. 27, 2023), <https://www.wbur.org/news/2023/10/27/umass-amherst-protests-arrests>; Jon "Ferris" Meredith, *Is Wearing a Pro-Palestine Shirt to the Wayne Schools an Act of Intimidation or is it Free Speech?*, TAP INTO WAYNE, (Nov. 6, 2023), <https://www.tapinto.net/towns/wayne/sections/education/articles/is-wearing-a-pro-palestinian-shirt-to-the-wayne-schools-an-act-of-intimidation-or-is-it-free-speech>.

<sup>7</sup> A Time for Action, Laura Ann Rosenbury, Pres. Barnard, (Oct. 26, 2023), <https://barnard.edu/news/time-action>. Since then, Barnard and Columbia administrators have repeatedly silenced and punished Palestinian students and their allies. See, e.g. Andrew Marantz, *Columbia Suspended Pro-Palestine Student Groups. The Faculty Revolted*, THE NEW YORKER, (Dec. 2, 2023), <https://www.newyorker.com/news/our-local-correspondents/columbia-suspended-pro-palestine-student-groups-the-faculty-revolted>.

<sup>8</sup> Zionism is a political ideology that recognizes Jewish nationhood and has in practice created a state that privileges the national and civil rights of Jews from all over the world over those of indigenous Palestinians throughout historic

Harvard University reported more than 70 incidents of harassment or threats against Palestine advocates and their allies, including a student in a hijab being chased with a knife, a woman whose hijab was ripped off, and a counter-protestor driving his car threateningly at a protestor.<sup>9</sup> The university has failed to address these complaints, instead issuing a university-wide email on “Combating Antisemitism” that condemned as antisemitic the phrase “from the river to the sea,”<sup>10</sup> which many Palestinians view as a call for freedom and equality.<sup>11</sup> In November, a student at Corona del Mar Middle and High School in California was suspended for remarks that included the words ‘Free Palestine,’ which a school official described as “‘hate speech that incites others to engage in this negative behavior.’”<sup>12</sup> On November 6, Brandeis University announced it was suspending its Students for Justice in Palestine (SJP) chapter, justifying the decision in part on

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Palestine. Yasmeen Abu-Laban, Abigail B. Bakan, *Anti-Palestinian Racism: Analyzing the Unnamed and Suppressed Reality*, PROJECT ON MIDDLE EAST POLITICAL SCIENCE (2021), <https://pomeps.org/anti-palestinian-racism-analyzing-the-unnamed-and-suppressed-reality>. Anti-Zionism and criticism of Israel are based on a desire for equal rights and justice for Palestinians who have been expelled from, militarily occupied in, and denied self-determination and freedom throughout their homeland over the 75 years that Israel has existed. Leading human rights groups have found that many of these policies and practices constitute apartheid and crimes against humanity. See, e.g., Amnesty International, *Israel's Apartheid Against Palestinians: Cruel System of Domination and Crime Against Humanity*, (Feb. 1, 2022), <https://www.amnesty.org/en/documents/mde15/5141/2022/en/>, Human Rights Watch, *A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution*, (Apr. 27, 2021), <https://www.hrw.org/report/2021/04/27/threshold-crossed/israeli-authorities-and-crimes-apartheid-and-persecution>.

<sup>9</sup> Their, *supra* note 6.

<sup>10</sup> Combating Antisemitism, Claudine Gay, Pres. Harvard University, (Nov. 9, 2023) <https://www.harvard.edu/president/news/2023/combating-antisemitism/>.

<sup>11</sup> Multiple students and campus groups have faced disciplinary consequences, or sometimes even criminal charges, for chants or social media postings that include the common Palestinian protest refrain, “From the river to the sea...” See, e.g., Kilat Fitzgerald, *CAIR Files Civil Rights Complaint Against Edina Schools, Says Students Suspended for Using pro-Palestinian Chant*, KSTP-TV (Nov. 28, 2023), [https://www.thefire.org/news/rockland-community-college-suspends-student-pro-palestinian-advocacy](https://kstp.com/kstp-news/local-news/cair-files-civil-rights-complaint-against-edina-schools-says-students-suspended-for-using-pro-palestinian-chant/#:~:text=This%20comes%20after%20CAIR%20says.support%20of%20Palestine%20last%20month.&text=CAIR%20Minnesota%20says%20the%20two,%2C%20Palestine%20will%20be%20free; Zach Greenberg, <i>Rockland Community College Suspends Student for pro-Palestinian Advocacy</i>, The Foundation for Individual Rights and Expression (Nov. 13, 2023), <a href=). However, “such slogans have been used in different ways by different individuals and organizations, and they cannot reasonably be deemed self-evidently antisemitic or hate speech.” Asli Ü. Bâli and Laurie Brand, *Letter Protesting the Banning of the Brandeis University SJP Chapter*, MIDDLE EAST STUDIES ASSOCIATION (NOV. 13, 2023), <https://mesana.org/advocacy/committee-on-academic-freedom/2023/11/13/letter-protesting-the-banning-of-the-brandeis-university-sjp-chapter>. See also A Collective of Anti-Occupation Jews, *An Open Letter from Jewish Students*, BROWN DAILY HERALD (Nov. 7, 2023) <https://www.browndailyherald.com/article/2023/11/an-open-letter-from-jewish-students> (“It is not only blatantly false but obscene to frame a call for liberation and justice as genocidal while Israel is carrying out genocide in Gaza funded by billions of American tax dollars.”); Maha Nassar, *“From the River to the Sea”-A Palestinian Historian Explores the Meaning of the Scrutinized Slogan*, THE CONVERSATION, (NOV. 16, 2023) <https://theconversation.com/from-the-river-to-the-sea-a-palestinian-historian-explores-the-meaning-and-intent-of-scrutinized-slogan-217491> (“Most Palestinians using this chant do not see it as advocating for a specific political platform or as belonging to a specific political group. Rather, the majority of people using the phrase see it as a principled vision of freedom and coexistence.”); Yousef Munayyer, *What Does “From the River to the Sea” Really Mean?* JEWISH CURRENTS, (JUN. 11, 2021), <https://jewishcurrents.org/what-does-from-the-river-to-the-sea-really-mean> (noting that “‘From the river to the sea’ is a rejoinder to the fragmentation of Palestinian land and people by Israeli occupation and discrimination”).

<sup>12</sup> Ruben Vives, *Newport Beach Student Suspended for Remarks to Another Student, Including “Free Palestine,”* LOS ANGELES TIMES (Nov. 11, 2023), <https://www.latimes.com/california/story/2023-11-11/corona-del-mar-student-suspended-for-saying-free-palestine>.

claims that SJP chants and social media posts in support of Palestinian freedom were anti-Jewish.<sup>13</sup> Statements by the former presidents of the University of Pennsylvania and Harvard University, among others, suggest the schools accept and are implementing policies that similarly reflect a conflation between criticism of Zionism and antisemitism, calling into question the schools' commitments to protect all students and academic freedom.<sup>14</sup>

Two investigations currently pending before OCR illustrate the type of discriminatory and hostile campus environment that Palestinians and their allies are now experiencing on a magnified scale. The first is a 2021 complaint against Florida State University (FSU) for failing to remediate the severe and pervasive forms of anti-Palestinian harassment that Ahmad Daraldik was subjected to and that the university exacerbated.<sup>15</sup> The second is a 2022 complaint against George Washington University challenging the university's discriminatory cancellation of trauma support services offered to Palestinian students.<sup>16</sup> We underscore the need to swiftly complete these investigations and to open new ones to address the widespread anti-Palestinian racism that universities have embraced since October 7.

The IHRA definition and its conflation of anti-Zionism and antisemitism are also at the heart of legal complaints recently filed against New York University and the University of California, Berkeley.<sup>17</sup> These lawsuits rely on IHRA to attack a range of expression in support of Palestinian rights, including the creation of a Palestine 101 training and statements labeling Israeli policies and actions "war crimes," "genocide," and "apartheid,"<sup>18</sup> all of which leading human rights groups, scholars, and U.N. officials have also asserted.<sup>19</sup>

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<sup>13</sup> Bâli and Brand, *Letter Protesting the Banning of the Brandeis University SJP Chapter*, *supra* note 11.

<sup>14</sup> Peter Beinart, *Harvard is Ignoring Its Own Antisemitism Experts*, JEWISH CURRENTS (DEC. 11, 2023), <https://jewishcurrents.org/harvard-is-ignoring-its-own-antisemitism-experts>.

<sup>15</sup> See *Dept. of Education Opens Investigation into Anti-Palestinian Discrimination at Florida State University*, PALESTINE LEGAL, (Jun. 22, 2023), <https://palestinelegal.org/news/dept-of-ed-investigates-fsu>.

<sup>16</sup> See *U.S. Dep't of Education Opens First of Its Kind Investigation into Anti-Palestinian Discrimination at George Washington University*, PALESTINE LEGAL, (May 11, 2023), <https://palestinelegal.org/news/dept-of-ed-opens-gw-title-vi-investigation> (GWU Hillel, along with the GWU administration, described the services for Palestinian students as "harmful" and "exclusionary" of Jewish students, relying on a similar reasoning found in the IHRA definition to justify the decision).

<sup>17</sup> Complaint *Ingber v. New York University 1:23-cv-10023*, para 23; Complaint, *Brandeis Center v. Regents*, 3:23-cv-06133, para 71 (bringing Title VI and other claims alleging that the university tolerated a hostile environment, in particular for permitting student groups to voluntarily adopt a bylaw pledging not to host Zionist speakers or events and committing to anti-bias training). See also Bianca Quilantan, *Jewish groups sue University of California over 'unchecked' antisemitism*, POLITICO, (Nov. 28, 2023), <https://www.politico.com/news/2023/11/28/jewish-groups-university-california-antisemitism-lawsuit-00128772>.

<sup>18</sup> Notably, the lawsuit against NYU misrepresents a 2020 settlement agreement with your office. The complaint alleges, "Faculty members directly and explicitly invoked and implicated almost every example of antisemitism listed in the IHRA's definition of antisemitism—the definition that NYU adopted in 2020." Complaint *Ingber v. New York University 1:23-cv-10023*, para 150. However, NYU explicitly declined to adopt IHRA's examples as part of that agreement, stating at the time, "[NYU] will devise its own examples to implement the new policies and...will affirm its long-held commitment to academic freedom and free speech." *Palestine Legal Urges NYU to Stop Politically-Motivated Investigation of Law Students*, PALESTINE LEGAL, (MAY 27, 2022), <https://palestinelegal.org/news/2022/5/27/palestine-legal-urges-nyu-to-stop-politically-motivated-investigation-of-law-studentsnbsp>. Such a misrepresentation deserves immediate public correction on the part of OCR to safeguard the rights of Palestinians and their allies.

<sup>19</sup> See, e.g., *In Gaza Genocide Case, Palestinians Seek Immediate Court Order to Stop Biden from Arming and Funding Israeli Government, Cite His Legal Duty to Prevent, Not Further, Genocide*, CENTER FOR CONSTITUTIONAL

These examples, along with the attached appendix, underscore why it is critical that your office refuse to rely on IHRA or similar conflation of antisemitism and criticism of Israel in agency rules, agreements, or decisions as it will further exacerbate anti-Palestinian racism and chill expression in support of Palestinian rights.

Finally, in this current political moment of resurgent right-wing nationalism and white supremacy, it is critical to understand the common threats that racism, xenophobia, and bigotry pose to all minorities and communities of color, and to reject efforts that purport to address one form of bigotry while bolstering another. The use of the IHRA definition and the conflation of antisemitism and anti-Zionism that it emboldens creates just that: a zero-sum game wherein to be pro-Palestinian you must be anti-Jewish, and to be pro-Jewish necessarily means being anti-Palestinian. This false dichotomy has enabled the term antisemitism to be weaponized against Palestinians and their allies for expressing their desire for Palestinian freedom, opposition to the genocide of their people, and views on Israel and Zionism.<sup>20</sup> This weaponization has created a hostile environment for Palestinians whose criticism of Israel is based in their own experiences of subjugation at the hands of Israel's oppressive military occupation and its attempts to erase and criminalize them.

This false dichotomy mirrors similar right-wing attacks on other anti-racist initiatives in the education realm. In recent years, the American Association of University Professors (AAUP) has compared attempts to codify the politicized IHRA definition to legislative efforts seeking to ban so-called 'Critical Race Theory (CRT)' initiatives and condemned both as threats to academic freedom.<sup>21</sup> Anti-CRT efforts are premised on the notion that teaching about systemic racism is harmful to white students who may feel guilt if taught about the history of race in the U.S. Similarly, promotion and use of the IHRA definition emphasizes the notion that criticism of Israel (including calling it "racist endeavor") makes Jewish students uncomfortable because many feel a connection with Israel. IHRA justifies censorship or severe restrictions on speech, academic

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RIGHTS, (Nov. 16, 2023), <https://ccrjustice.org/home/press-center/press-releases/gaza-genocide-case-palestinians-seek-immediate-court-order-stop>; Mike Corder, *South Africa's genocide case against Israel sets up a high-stakes legal battle at the UN's top court*, ASSOCIATED PRESS, (Jan. 2, 2024), <https://apnews.com/article/un-court-south-africa-israel-gaza-genocide-71be2ce7f09bfce05a7cae26689ee262>; see also note 8 *supra* (collecting sources).

<sup>20</sup> For example, on October 16, 2023, the Anti-Defamation League (ADL), and the Louis D. Brandeis Center sent a letter to presidents of colleges and universities to investigate Students for Justice in Palestine (SJP) for "potential violations of the prohibition against materially supporting a foreign terrorist organization." See ADC et al., *Coalition Letter to Schools: Protect Students Speaking Out on Palestine*, (Nov. 3, 2023), <https://muslimadvocates.org/2023/11/coalition-letter-to-schools-protect-students-speaking-out-on-palestine/>. The ADL and Brandeis Center letter fails to provide evidence to support the inflammatory accusation that weaponizes terrorism laws and frameworks that continue to harm Arab, Muslim, and other communities of color and to chill speech and advocacy protected by the First Amendment. See also *Open Letter to Colleges and University Leaders: Reject Efforts to Restrict Constitutional Protected Speech on Campuses*, ACLU (Nov. 1, 2023) <https://www.aclu.org/documents/open-letter-to-colleges-and-university-leaders-reject-efforts-to-restrict-constitutionally-protected-speech-on-campuses>.

<sup>21</sup> *Legislative Threats to Academic Freedom: Redefinitions of Antisemitism and Racism*, THE AMERICAN ASSOCIATION OF AMERICAN UNIVERSITY PROFESSORS (Mar. 2022), <https://www.aaup.org/report/legislative-threats-academic-freedom-redefinitions-antisemitism-and-racism> (warning that the adoption of IHRA will curtail academic freedom and undermine the mandate of higher educational institutions to produce critical thinkers).

programs, and extracurricular activities that criticize Israel on similar pretexts that anti-CRT initiatives seek to ban teaching on anti-racist issues.<sup>22</sup>

Notably, those actively engaged in pushing for the adoption of the IHRA definition are also proponents of anti-CRT measures. The Anti-Defamation League (ADL),<sup>23</sup> the AMCHA Initiative,<sup>24</sup> StandWithUs, the Louis D. Brandeis Center, and the Deborah Project<sup>25</sup> oppose educational programming and initiatives that include Palestinian narratives in anti-racist curricula.<sup>26</sup> These organizations have contributed to the targeting of Diversity, Equity, and Inclusion offices, Ethnic Studies curricula, and CRT programming,<sup>27</sup> wielding the IHRA definition in ways that support right-wing efforts to undermine institutions that address systemic forms of oppression.<sup>28</sup>

We urge OCR to carefully navigate the nuances of our political moment in ways that do not reinforce systems of racism and oppression. The politicized push by anti-Palestinian groups to enforce the IHRA definition of antisemitism is a recipe for educational institutions to abrogate their mission of fostering an inclusive and critical campus climate that values free and open inquiry by effectively excluding Palestinians and their allies. We urge OCR to reject this pressure to further entrench or enforce the IHRA definition and to ensure that policies, decisions, or agreements do not rely on a conflation of antisemitism and criticism of Israel that will harm Palestinians and chill

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<sup>22</sup> Secretary Cardona has rejected similar efforts to interfere by anti-CRT advocates and emphasized that the Department of Education should not interfere in such curricula, See Matt Barnum, *Cardona: I Trust Teachers to Handle History* “we’re not proud of,” CHALKBEAT (Jun. 24, 2021) <https://www.chalkbeat.org/2021/6/24/22549078/miguel-cardona-critical-race-theory-schools-antiracism-house-hearing/> (“I don’t think we should be in the business of excluding what students are discussing or what they’re seeing for fear they can’t handle it. . .”).

<sup>23</sup> Over 200 social justice organizations have warned against the ADL’s inclusion in civil rights spaces due to its history of harmful practices targeting marginalized communities and social justice movements, including the Movement for Black Lives and the Palestine solidarity movement. See e.g., Press Release, Anna Baltzer, Laura Barrios, Emmaia Gelman, Heike Schotten, and US Campaign for Palestinian Rights, US Campaign for Palestinian Rights (2023), <https://uscpr.org/adl-white-house/>.

<sup>24</sup> Tammi Rossman-Benjamin, *Why DEI Programs Can’t Address Campus Antisemitism*, SAPIR JOURNAL, (2023), <https://sapirjournal.org/antisemitism/2023/08/why-dei-programs-cant-address-campus-antisemitism/>.

<sup>25</sup> Complaint, Concerned Jewish Parents v. Liberated Ethnic Studies Model Curriculum Consortium 2:22-cv-03243, <https://jewishinsider.nyc3.digitaloceanspaces.com/wp-content/uploads/2022/05/16171942/Complaint-California-Ethnic-Studies.pdf>; *The Deborah Project adding litigators against critical race theory*, JEWISH NEWS SYNDICATE (Jan. 10, 2023), <https://www.jns.org/the-deborah-project-adding-litigators-against-critical-race-theory/>.

<sup>26</sup> See, e.g., Marc Sternfield, *Jewish Groups Sue California School District*, KTLA, (Sept. 11, 2023), <https://ktla.com/news/local-news/jewish-groups-sue-california-school-district/>; Over 24 organizations, including AMCHA Initiative, published a joint statement targeting Critical Race Theory curricula. “Don’t Divide Us! Joint Statement Against Critical Race Theory Using Race to Divide Americans, (June 2021), <https://defendinged.org/wp-content/uploads/2021/06/Joint-Statement-against-CRT.pdf>; AMCHA Initiative, Critical Ethnic Studies, Anti-Zionism, and the Harassment of Jewish Students: Concerns about the AB 1460-Mandated Ethnic Studies Requirement at California State University, (Aug. 2020), <https://amchainitiative.org/wp-content/uploads/2020/08/CES-Anti-Zionism-and-the-Harassment-of-Jewish-Students.pdf>.

<sup>27</sup> See, e.g., DON’T DIVIDE US *supra* note 25; Gabi Kirk, *Authors of California Ethnic Studies Curriculum Decry Cuts to Arab Studies*, JEWISH CURRENTS (Feb. 3, 2021), <https://jewishcurrents.org/authors-of-california-ethnic-studies-curriculum-decry-cuts-to-arab-studies>; Gabi Kirk, *Attacks From Pro-Israel Groups Threaten California’s Ethnic Studies Curriculum* JEWISH CURRENTS, (May 7, 2020), <https://jewishcurrents.org/attacks-from-pro-israel-groups-threaten-californias-ethnic-studies-curriculum>.

<sup>28</sup> See, e.g., The Chronicle of Higher Education, *The Assault on DEI*, <https://www.chronicle.com/package/the-assault-on-dei> (last visited Jan. 2, 2024).

expression in support of Palestinian rights. This is necessary if OCR is to avoid infringing on bedrock free speech protections and undermining its mandate to protect *all* vulnerable students against discrimination.

For further information, please be in touch with Lina Assi, Palestine Legal Advocacy Manager, at [REDACTED], [REDACTED].

Sincerely,

American-Arab Anti-Discrimination Committee (ADC)  
American Muslim Bar Association  
Asian Americans Advancing Justice  
Center for Constitutional Rights  
Civil Liberties Defense Center  
Community Justice Project  
Council on American-Islamic Relations (CAIR)  
Defending Rights and Dissent  
National Lawyers Guild  
Movement Law Labs  
Muslim Advocates  
Palestine Legal  
Partnership for Civil Justice Fund  
Project South



CC:

Dr. Miguel Cardona  
Secretary of Education  
U.S. Department of Education

Neera Tanden  
Director, Domestic Policy Council

Monique Dixon  
Deputy Assistant Secretary for Policy  
U.S. Department of Education, Office for Civil Rights

Alejandro Reyes  
Director, Program Legal Group

Maggie Siddiqi  
Director, Center for Faith-Based and Neighborhood Partnerships

Hannah Zack  
Special Assistant

## Appendix

Bard College  
City University of New York (CUNY)  
George Washington University  
Georgia Institute of Technology  
New York University  
University of California, Berkeley  
University of North Carolina and Duke University  
University of Pennsylvania  
University of Vermont

### Bard College

In early 2023, Bard College faced pressured from the Anti-Defamation League and the Israeli consul for public diplomacy to censor a course titled, “Apartheid in Israel-Palestine.”<sup>1</sup> The course, taught by Jewish American visiting faculty Nathan Thrall, was offered by the Bard Human Rights Program and cross-listed in other departments. The course aimed to engage students on reports written by the United Nations and other human rights organizations documenting the way “Israeli officials are committing the crime of apartheid.”<sup>2</sup> The Israeli consul for public diplomacy in New York called on Bard to cancel the class “on the grounds that it breached the controversial International Holocaust Remembrance Alliance (IHRA) definition of antisemitism.”<sup>3</sup>

Though Bard administrators ultimately withstood the enormous pressure to cancel Thrall’s class and it proceeded as planned, this is an example of how IHRA is being used to stifle academic freedom through the conflation of criticism of Israel (even in an academic setting based on a rigorous curriculum studying human rights reports) with antisemitism.

### City University of New York (CUNY)<sup>4</sup>

Fatima Mohammad was selected by her peers to give a commencement speech at the CUNY School of Law graduation ceremony in May 2023. In her speech, which was approved in advance by CUNY Law administrators, she discussed harms experienced by Black and brown

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<sup>1</sup> See, e.g., Chris McGreal, *Israeli diplomat pressured US college to drop course on ‘apartheid’ debate*, THE GUARDIAN, (Nov. 8, 2023), <https://www.theguardian.com/us-news/2023/nov/08/israeli-diplomat-bard-college-apartheid-debate>.

<sup>2</sup> See *Supporting Professor Nathan Thrall’s Academic Freedom*, ACADEMIA FOR EQUALITY, (Mar.15, 2023), <https://en.academia4equality.com/post/solidarity-with-professor-nathan-thrall>.

<sup>3</sup> McGreal, *supra* note 1.

<sup>4</sup> *Civil Rights Groups Urge CUNY to Retract Anti-Palestinian Statement and Apologize*, PALESTINE LEGAL,(Jun. 3, 2023), <https://palestinelegal.org/news/2023/6/13/civil-rights-groups-urge-cuny-to-retract-anti-palestinian-statement-and-apologize>.

communities in the US, experiences of Palestinians living under Zionist settler-colonialism, and celebrated CUNY Law’s mission of lawyering in service of oppressed communities.

Following the commencement ceremony, Fatima’s speech went viral in the media, and she experienced a barrage of racist, anti-Arab, and anti-Muslim backlash from public officials. Fatima’s speech was wrongly labeled as “antisemitic” and “hateful.” A New York City councilmember and right-wing anti-Palestinian groups have campaigned for Fatima to be disqualified on her character and fitness application for the New York bar.<sup>5</sup> CUNY Law has also come under attack. For example, the Israeli government-funded International Legal Forum called on the Internal Revenue Service to revoke CUNY Law’s tax-exempt status. Rep. Gottheimer called on the Department of Education to defund CUNY, alleging that Fatima’s speech violates the distorted IHRA definition and its illustrative examples.<sup>6</sup>

On May 30, 2023, CUNY’s Board of Trustees and Chancellor published a statement<sup>7</sup> condemning Fatima’s speech as “hate speech” and “a public expression of hate toward people and communities based on their religion, race or political affiliation”—suggesting that her speech critical of governmental policies was unlawful and sanctionable. The statement reinforced the smear campaign led by public officials and anti-Palestinian groups in the wake of Fatima’s speech. And, although it did not explicitly invoke the IHRA definition, the CUNY statement reflected the problematic conflation of criticism of Israel with anti-Jewish hate at the heart of the definition, thereby chilling protected speech and perpetuating anti-Palestinian racism and harassment.

## George Washington University

In January 2023, StandWithUS—a right-wing, pro-Israel group notorious for attacking and smearing Palestine activists<sup>8</sup>—relied on IHRA to file a meritless Title VI complaint with the Department of Education’s Office for Civil Rights (OCR) against George Washington University.<sup>9</sup> The complaint singles out Professor Lara Sheehi, an assistant professor of clinical psychology, dedicating several pages to falsely alleging that she discriminated against Jewish students, and accuses George Washington University (GW) of fostering an antisemitic environment by failing to properly investigate a history of complaints against Professor Sheehi. The names of other involved parties, including GW administrators and professors to whom the Jewish students allegedly complained, are redacted, making Professor Sheehi the only open target because of her scholarship and activism for Palestine.

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<sup>5</sup> *Lawfare Project urges NY State Supreme Court to block anti-Jewish CUNY Law graduate from practicing law*, LAWFARE PROJECT, (JUN. 6, 2023), <https://www.thelawfareproject.org/releases/2023/6/6/lawfare-project-urges-ny-state-supreme-court-to-block-anti-jewish-cuny-law-graduate-from-practicing-law>.

<sup>6</sup> Josh Gottheimer, Letter to the Department of Education OCR Regarding Antisemitism and Anti-Israel Activity at CUNY, (Jun. 6, 2023), <https://d12t4t5x3vyizu.cloudfront.net/gottheimer.house.gov/uploads/2023/06/Letter-to-DOE-OCR-Antisemitism-and-Anti-Israel-activity-at-CUNY-6.5.202311.pdf>.

<sup>7</sup> *Statement from the Board of Trustees and Chancellor of the City University of New York*, CITY UNIVERSITY OF NEW YORK, (May. 30, 2023), <https://www1.cuny.edu/mu/forum/2023/05/30/statement-from-the-board-of-trustees-and-chancellor-of-the-city-university-of-new-york/>.

<sup>8</sup> See Chris McGreal, *George Washington University accused of ‘colluding’ with rightwing pro-Israel group*, THE GUARDIAN (Feb. 12, 2023), <https://www.theguardian.com/us-news/2023/feb/12/george-washington-university-standwithus-lara-sheehi-complaint> (“SWU has worked closely with the Israeli foreign ministry, including to oppose pro-Palestinian boycotts among students.”).

<sup>9</sup> Id.

The StandWithUS complaint explicitly invokes IHRA and its “contemporary examples” pertaining to Israel to support its disingenuous argument that GW and Professor Sheehi fostered an antisemitic learning environment. The complaint uses IHRA to argue that because some Jews believe Zionism is integral to their personal identity, the university cannot tolerate any political criticism of how Zionism has engendered generations of harm and violence against Palestinians in historic Palestine and in exile.

The complaint and accompanying campaign’s misrepresentation of facts about Professor Sheehi has caused severe damage to her teaching, research and professional pursuits. StopAntisemitism.org called Professor Sheehi a “grotesque antisemite” and encouraged people to email OCR to demand that Professor Sheehi be investigated and reprimanded.<sup>10</sup> Pro-Israel activists lobbied to have her fired from GW, to force her to resign her position as President of the American Psychological Association’s Society for Psychoanalysis and Psychoanalytic Psychology, and to have an ethics investigation opened against her by professional organizations, threatening her career and professional reputation.<sup>11</sup> Professor Sheehi was not scheduled to teach for the Spring 2023 semester.

As a consequence of this IHRA-based smear campaign, Professor Sheehi was pelted with personal, slanderous attacks: she was called an antisemite and “Jew-hating trash,” an ISIS follower, a Hizballah operative, a Hamas agent, an Ayatollahist, an Iranian spy, and an Arab “Goebbels.” She was also doxed, with her personal information including address, professional license, and personal email, posted online and putting her physical safety at risk.<sup>12</sup>

In February 2023, Palestine Legal filed a Title VI complaint with OCR on behalf of students and staff who have faced an anti-Palestinian environment at GW based on several incidents, including the attack on Professor Sheehi and her class.<sup>13</sup> The complaint also details the singling out of GW’s Students for Justice in Palestine club with false charges of vandalism that lead to long disciplinary processes, which ultimately exonerated the group and its president for their protest of an event featuring a former high ranking Israeli military officer who oversaw the subjugation of Palestinians during his time in the army.<sup>14</sup> Complaints about the protest included claims of antisemitism and involved a discriminatory police investigation of Arab students. Finally, the Title VI complaint details the closure of a GW office that provided trauma support services to students. When the office offered trauma services to Palestinian students during the spring of 2021 when Israel was carrying out fatal attacks on Gaza and the forcible eviction of Palestinians from their homes in East Jerusalem, GW Hillel claimed the support services for

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<sup>10</sup> “Lara Sheehi,” StopAntisemitism.org, (Jan. 14, 2023), <https://www.stopantisemitism.org/antisemite-of-the-week-10/lara-sheehi-college-campus-tormentor>.

<sup>11</sup> Lara Sheehi, “On Targeting an Arab Woman,” COUNTERPUNCH, (Feb. 3, 2023), <https://www.counterpunch.org/2023/02/03/on-targeting-an-arab-woman/>.

<sup>12</sup> Id.

<sup>13</sup> *Palestine Legal Files Title VI Complaint Against George Washington University for Years-Long, Hostile Anti-Palestinian Environment*, PALESTINE LEGAL, (Feb. 15, 2023), <https://palestinelegal.org/news/gw-title-vi-complaint>. Many of the facts of the complaint are detailed in E-mail from Radhika Sainath, Senior Staff Attorney, Palestine Legal, to Thomas Leblanc, President George Washington Univ. (Nov. 8, 2021), <https://static1.squarespace.com/static/548748b1e4b083fc03ebf70e/t/6193d24c5c4192502fceb7/1637077580521/Palestine+Legal+Letter+to+GW+Nov+8+Final.pdf>.

<sup>14</sup> See *Success! George Washington SJP Completely Exonerated After Controversial Hearing*, PALESTINE LEGAL, (DEC. 19, 2022), <https://palestinelegal.org/news/2022/12/19/gw-clears-sjp-of-all-charges>.

Palestinians were “harmful and exclusionary” to Jewish students. GW immediately canceled them and took measures to thwart the work of the office, and eventually shut it down entirely.<sup>15</sup> Such instrumentalization of antisemitism allegations infringes on Palestinians’ ability to freely speak to their lived experiences and access support for their ongoing trauma in a manner equal to students of other backgrounds, and fosters the spread of misinformation and anti-Palestinian racism.

OCR has opened an investigation into this complaint.

## Georgia Institute of Technology<sup>16</sup>

On April 1, 2019, as part of Israeli Apartheid Week, the Georgia Tech Young Democratic Socialists of America (YDSA) hosted an event titled “Palestine 101,” where both Jewish and Palestinian speakers presented. Prior to the event, a Hillel employee sent out a mass email announcing that Hillel staff would attend and “offer a counter-narrative.” The employee showed up at the event, and YDSA organizers turned her away, believing that she planned to disrupt the event.

The Hillel employee filed a complaint with Georgia Tech claiming that she was discriminated against for being Jewish. The complaint disregarded the fact that there were Jewish students who both organized and attended the event. Additionally, attendees were not asked their religious or political beliefs prior to entering the event. Through the course of an investigation that dragged on for months, YDSA student organizers were subjected to political smear campaigns and stressful meetings with school administrators while trying to focus on their academic work, their jobs, and their extracurricular activities. Georgia Tech eventually notified YDSA that it had violated the school prohibition on “objectively offensive conduct” based on a protected characteristic, but did not elaborate on the conduct or the protected characteristic on which the complaint was based. YDSA appealed and the decision was reversed.

After Georgia Tech reversed the sanctions imposed against YDSA, on December 27, 2019, the right-wing, anti-LGBTQ+, and anti-abortion American Center for Law and Justice (ACLJ) filed a Title VI complaint, alleging that the Hillel employee was denied entry into the event because she is Jewish, and citing Trump’s Executive Order integrating the IHRA definition.<sup>17</sup> OCR opened an investigation in March 2020.

In January 2021, the Hillel employee agreed to drop the case in exchange for Georgia Tech posting a statement stating that antisemitism is unacceptable and recognizing the 2019 Executive Order on Combatting Anti-Semitism and the distorted IHRA definition.<sup>18</sup> The university’s settlement with the Hillel employee and its recognition of the IHRA definition have since led

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<sup>15</sup> *GW Closes Student Trauma Support Office After Year of Anti-Palestinian Retaliation (Updated)*, PALESTINE LEGAL, (July 5, 2022), <https://palestinelegal.org/news/2022/7/5/george-washington-university-closes-student-trauma-support-office-after-year-of-anti-palestinian-retaliation>.

<sup>16</sup> See *Federal Crackdown on Campus Palestine Activism: Title VI Attacks*, PALESTINE LEGAL, (Aug. 12, 2020) <https://palestinelegal.org/news/2020/8/12/title-vi>

<sup>17</sup> See Letter from American Center for Law & Justice, Letter Complaint to the Department of Education OCR, (Dec. 27, 2019) [http://media.aclj.org/pdf/ACLJ-letter.complaint-to-Dept.-of-Education-OCR-re-GA-Tech-\(12.27.19\)\\_Redacted.pdf](http://media.aclj.org/pdf/ACLJ-letter.complaint-to-Dept.-of-Education-OCR-re-GA-Tech-(12.27.19)_Redacted.pdf).

<sup>18</sup> See Georgia Tech, “Statement from Georgia Tech on Resolution of Department of Education Review,” (Jan. 18, 2021), <https://news.gatech.edu/news/2021/01/18/statement-georgia-tech-resolution-department-education-review>.

Georgia Tech students to alter events on Israel's illegal actions for fear of running afoul of the definition and university policy.

## New York University<sup>19</sup>

In December 2022, NYU refused to rehire graduate student Naye Idriss from her campus job at the library after she wrote "Free Palestine" and "F---" over the word Israel on a discarded mail bag.<sup>20</sup> The university launched an investigation of Idriss for "vandalism" and "antisemitism" for conveying a political message on a piece of trash.<sup>21</sup> The university then closed the student work positions at the library, and though the other student workers were eventually rehired for the spring semester, Idriss was not, in a move that the university's labor union called discriminatory and a violation of labor laws.<sup>22</sup> Right-wing groups also slandered Idriss across media platforms, releasing her image and personal information online. The investigation and doxing campaign negatively impacted Idriss' mental health, causing her substantial stress and anxiety. It also put her in a position of economic insecurity, as she was relying on the income from her student work position for the next semester.

NYU's conduct towards Idriss occurred in the wake of increasing pressure on the university by Israel lobby groups to adopt the definition and contemporary examples of antisemitism related to Israel found in IHRA.<sup>23</sup> Even though NYU's current anti-discrimination policy incorporates language taken from IHRA without the problematic illustrative examples,<sup>24</sup> the school nonetheless initially labeled Idriss' speech as "antisemitic," illustrating how Palestinians and their allies bear the consequences for pressure on schools to conflate speech critical of Israel with anti-Jewish hate.

It was only after public outcry and a legal process that NYU agreed to rehire Idriss and drop the baseless charges against her.<sup>25</sup> Though she ultimately settled with the university for backpay, she was never compensated for the stress, anxiety, and deleterious effects on her mental health caused by the long legal process and the public attacks on her.

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<sup>19</sup> *SUCCESS: NYU Withdraws False Accusations Against Pro-Palestine Graduate Student Worker; Rehires Idriss to Library with Back Pay*, PALESTINE LEGAL, (Mar. 30, 2023), <https://palestinelegal.org/news/success-nyu-withdraws-false-accusations-against-pro-palestine-graduate-student-worker>.

<sup>20</sup> Nora Barrows-Friedman, *NYU student punished for writing "fuck" on Israeli mail bag*, ELECTRONIC INTIFADA (Jan. 7, 2023), <https://electronicintifada.net/blogs/nora-barrows-friedman/nyu-student-punished-writing-fuck-israeli-mail-bag>.

<sup>21</sup> Jesse Thomas, "NYU graduate student loses job, investigated "for anti-Semitism" after writing anti-Israel slogan on trash bag," *World Socialist Website*, (Feb. 7, 2023), <https://www.wsws.org/en/articles/2023/02/08/rloh-f08.html>.

<sup>22</sup> Barrows-Friedman, *supra* note 20.

<sup>23</sup> Yezen Saadah, *NYU grad student accused of antisemitism for writing on discarded mailbag*, WASHINGTON SQUARE NEWS (Feb. 1, 2023), <https://nyunews.com/news/2023/02/01/grad-student-anti-semitism-charges/>.

<sup>24</sup> See Barrows-Friedman, *supra* note 20.

<sup>25</sup> Committee on Academic Freedom, *Letter to the president of NYU regarding graduate student Naye Idriss*, MIDDLE EAST STUDIES ASSOC. (Feb. 8, 2023), <https://mesana.org/advocacy/committee-on-academic-freedom/2023/02/08/letter-to-the-president-of-nyu-regarding-graduate-student-naye-idriss>.

## University of California, Berkeley<sup>26</sup>

In August 2022, Berkeley Law Students for Justice in Palestine (LSJP), along with nine other student groups (most of which consisted of students of color), adopted a policy in their bylaws against inviting speakers who expressed Zionist views that perpetuate anti-Palestinian racism. In response, an Israeli government-funded legal group and a Florida lawyer filed a complaint with OCR mischaracterizing as anti-Jewish bigotry the students' desire to not provide platforms to individuals who support Israel's discriminatory treatment of Palestinians.<sup>27</sup> The complaint claims that the bylaw violates the IHRA definition of antisemitism, and calls on OCR to require UC Berkeley to adopt IHRA and denounce anti-Zionism as antisemitism.<sup>28</sup>

After adopting the bylaw, LSJP and other student organizations faced an onslaught of attacks on campus for their speech activity in support of Palestinian rights. Students endured threats of physical violence, harassment, and extensive disinformation campaigns. Students were doxed and faced public demands that they be prevented from getting jobs or be licensed to practice law, all because of their solidarity with Palestinians and based on the logic of IHRA.<sup>29</sup> Over the course of several days, billboard trucks were parked outside the law school, naming individual students who were members of groups that supported the bylaw, comparing them to Hitler and Nazi supporters and labeling them antisemites.<sup>30</sup>

These attacks were followed by an effort to adopt an IHRA resolution in the UC Berkeley student senate. The harassment Palestinian students and their allies faced following the solidarity bylaw instilled so much fear in students that they questioned whether they could even oppose the measure. Despite these attempts to silence student speech in support of Palestine, the resolution was ultimately tabled indefinitely.<sup>31</sup>

## University of North Carolina and Duke University

In March 2019, the University of North Carolina (UNC) and Duke University co-hosted an academic conference titled "Conflict Over Gaza: People, Politics, and Possibilities." The conference included panels discussing topics ranging from freedom of movement to the inaccessibility of food, water, and health for Palestinians living in Gaza. The conference included a performance of a satirical song by Palestinian rapper Tamer Nafar, which Nafar prefaced by mocking the accusations of antisemitism Palestinians often face.

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<sup>26</sup> *Berkeley Students Don't Have to Host Zionists*, PALESTINE LEGAL (Dec. 9, 2022), <https://palestinelegal.org/news/2022/12/9/berkeley-students-dont-have-to-host-zionists>.

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

<sup>28</sup> *UC Berkely Law Title VI Complaint*, JEWISH INSIDER (Nov. 18, 2022), <https://jewishinsider.nyc3.digitaloceanspaces.com/wp-content/uploads/2022/12/15111052/FINAL-UC-Berkeley-Title-VI-Claim-With-Watermark.pdf>. See also Arsen Ostrovsky and Gabriel Groisman, *Why We Filed a Civil Rights Claim Against UC Berkeley Law School*, NEWSWEEK (Nov. 23, 2022), <https://www.newsweek.com/why-we-filed-civil-rights-claim-against-uc-berkeley-law-school-opinion-1761793>.

<sup>29</sup> *Berkeley Students Don't Have to Host Zionists*, *supra* note 28.

<sup>30</sup> Berkeley Law Students for Justice in Palestine, *Statement of Solidarity*, (December 2022), [https://docs.google.com/document/d/1WpFVKIXI\\_Qkr3mUEQjmV2BpfFbjUgBn4MPR3LeT1DV4/edit](https://docs.google.com/document/d/1WpFVKIXI_Qkr3mUEQjmV2BpfFbjUgBn4MPR3LeT1DV4/edit).

<sup>31</sup> Aaron Bandler, *UC Berkely Student Senates Votes Against IHRA*, JEWISH JOURNAL (Feb. 16, 2023), <https://jewishjournal.com/news/356273/uc-berkeley-student-senate-votes-against-ihra/>.

Following the conference, the Zionist Organization of America (ZOA) requested that OCR investigate whether any federal funds were used to promote the conference, arguing that the conference was “hostile to Israel and blatantly antisemitic.”<sup>32</sup> The complaint came alongside efforts to cut funding to the Middle East Studies programs of the host universities. The ZOA complaint alleged that UNC and Duke did not adequately respond to alleged acts of antisemitism and did not condemn the conference for being “hostile to Israel.” Both UNC and Duke agreed to settle the complaints with OCR, without admitting to any violation of Title VI.<sup>33</sup>

The resolution agreement prompted UNC to revise its anti-discrimination policies to reassert its commitment to combat antisemitism and describe the forms of antisemitism that can manifest on campus. After both the UNC and the Duke University investigations were closed, ZOA attempted to reopen the investigation at Duke in 2020, alleging the university did not comply with the requirements of the agreement because it failed to punish a student for social media posts critical of Israel.<sup>34</sup>

## University of Pennsylvania

In September 2023, the University of Pennsylvania (UPenn) hosted the Palestine Writes Literature Festival, which was billed as a place to “share the magnificence of Palestine’s indigenous heritage” and featured over 100 novelists, artists and other luminaries.<sup>35</sup> Over 1400 people attended the event, the majority of whom were Palestinian or of Palestinian descent. In the weeks leading up to the festival, several pro-Israel advocacy groups urged the university to cancel, monitor, and/or surveil the festival.<sup>36</sup> Pro-Israel groups fear-mongered to local papers that the presence of the speakers who supported Palestinian rights posed a threat to the Jewish students

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<sup>32</sup> *Federal Crackdown on Campus Palestine Activism: Title VI Attacks*, PALESTINE LEGAL, (Aug. 12, 2020), <https://palestinelegal.org/news/2020/8/12/title-vi>.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> Palestine Writes, (2023), <https://palestinewrites.org/>; Bill V. Mullen, Malini Johar Schueller, ‘Palestine Writes’ returns to celebrate Palestinian literature and culture, MONDOWEISS, (Jul. 18, 2023), <https://mondoweiss.net/2023/07/palestine-writes-returns-to-celebrate-palestinian-literature-and-culture/>.

<sup>36</sup> See, e.g., *Palestine Legal to UPenn: Palestine Writes Literature Festival must be allowed to proceed without racist censorship*, Palestine Legal, (Sept. 18, 2023), <https://palestinelegal.org/news/2023/9/18/palestine-legal-to-upenn-palestine-writes-literature-festival-must-be-allowed-to-proceed-without-racist-censorship>; Saree Makdisi, *The War Against Palestinians on Campus Keeps Getting More Absurd*, THE NATION, (Oct. 3, 2023), <https://www.thenation.com/article/society/palestine-writes-festival-u-penn/>; *Anti-Defamation League Philadelphia, Letter Addressed to President Magill*, JEWISH INSIDER, (Aug. 28, 2023), <https://jewishinsider.nyc3.digitaloceanspaces.com/wp-content/uploads/2023/09/13123640/August-28-Letter-to-President-Magill-final-With-Watermark.pdf>; American Jewish Committee, *5 Things to Know About the Palestine Writes Event at Penn and Antisemitism*, AMERICAN JEWISH COMMITTEE GLOBAL VOICE, (Sept. 22, 2023), <https://www.ajc.org/news/5-things-to-know-about-the-palestine-writes-event-at-penn-and-antisemitism>.



housed nearby.<sup>37</sup> The attacks and disingenuous accusations of antisemitism brought against the festival referenced the IHRA definition in an effort to censor and cancel the event.<sup>38</sup>

## University of Vermont<sup>39</sup>

In April 2023, OCR entered into a resolution agreement with the University of Vermont (UVM) over a Title VI complaint brought by two anti-Palestinian advocacy groups, the Brandeis Center and Jewish on Campus (JOC), on behalf of anonymous Zionist students. The complaint alleged that Jewish students who “identify with Israel” were “excluded from a major student campus group” called UVM Empowering Survivors after the group posted a statement on Instagram criticizing the Israeli army’s abuse of Palestinians, stated that it identified as an anti-Zionist group after receiving numerous messages about this topic from users unconnected with UVM, and that it would block Zionists just as it blocks others who engage in harassment on the platform.<sup>40</sup> The complaint also alleges that UVM refused to sanction the Revolutionary Socialist Union book club for an Instagram post stating, “No racism, racial chauvinism, predatory behavior, homophobia, transphobia, Zionism, or bigotry and hate speech of any kind will be tolerated.” OCR could not find a single student willing to speak about these allegations, including the students who claim they were harmed.

Anti-Palestinian groups are attempting to use this agreement, which does not mention Zionism or the politicized IHRA definition of antisemitism, in order to chill speech supporting Palestinian rights by claiming OCR has created a new policy of incorporating criticism of Israel and anti-Zionism into anti-discrimination laws.<sup>41</sup> Due to the settlement agreement, students wishing to form organizations advocating for Palestinian rights on campus told Palestine Legal that they are afraid to seek club status as a result of this agreement, believing that they will not receive fair treatment from the university and/or will be subject to censorship.

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<sup>37</sup> See Radhika Sainath, *The Free Speech Exception*, The Boston Review, (Oct. 30, 2023), <https://www.bostonreview.net/articles/the-free-speech-exception/>; Jarrad Saffren, *Penn Is Hosting a Festival Celebrating Palestinian Culture. Is it Anti-Israel?*, Philadelphia Jewish Exponent, (Sept. 12, 2023), <https://www.jewishexponent.com/penn-is-hosting-a-festival-celebrating-palestinian-culture-is-it-anti-israel/>.

<sup>38</sup> Umar A Farooq, “Palestine Writes: First of its kind literature festival in US exceeds expectations amid threats, Middle East Eye, (Sept. 25, 2023), <https://www.middleeasteye.net/news/palestine-writes-us-first-its-kind-literature-festival-exceeds-expectations>.

<sup>39</sup> *University of Vermont’s Settlement with Dep’t of Education Refuses to Adopt IHRA Despite Pressure*, PALESTINE LEGAL, (Jun. 23, 2023), <https://palestinelegal.org/news/2023/6/28/university-of-vermonts-settlement-with-dept-of-education-refuses-to-adopt-ihra-despite-pressure?rq=vermont>.

<sup>40</sup> Id.

<sup>41</sup> *First Time Biden Administration Has Applied Title VI of the Civil Rights Act to Anti-Zionist Discrimination*, BRANDEIS CENTER, (Apr. 4, 2023), <https://brandeiscenter.com/brandeis-center-commends-dept-of-education-for-milestone-anti-semitism-resolution/>.