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VIA E-MAIL

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Re: Civil Rights Violations at The University of Vermont (“UVM”)

I. Introduction

Jewish students at the University of Vermont (“UVM”) have been subjected to a campaign of intimidation, harassment and discrimination targeting them on the basis of their Jewish ethnic identity. This has created a hostile environment on campus in which Jewish students are being excluded from university clubs and support groups.

This environment of harassment and intimidation has existed at UVM for years, but it intensified a few months ago when Jewish students who identify with Israel as the Jewish homeland were excluded from a major student campus group. Early in May 2021, thousands of UVM students participated in a mass walkout to demonstrate their dissatisfaction with the university’s handling of sexual assault allegations.¹ A collective called “UVM Empowering Survivors” was created to provide support for student victims of sexual assault. The group launched an Instagram account,

¹ Colin Flanders, *Thousands of Students Protest UVM's Handling of Sexual Violence*, SEVEN DAYS, (May 3, 2021, 8:07 AM), <https://www.sevendaysvt.com/OffMessage/archives/2021/05/03/thousands-of-students-protest-uvms-handling-of-sexual-violence>.

“ShareYourStoryUVM,”² as a place for student victims of sexual harassment and assault to anonymously share their stories. The account currently has over 4,000 followers³ - a figure that represents more than 1/3 of UVM’s total student enrollment.⁴ UVM Empowering Survivors rapidly became a key support group on campus, providing students, particularly those who felt betrayed by the university, with a virtual, emotional embrace.

On May 12, 2021, the group announced on its Instagram page that Zionist students were no longer welcome in the group and would be “blocked.” When Jewish Zionist students reached out to the group to discuss the matter, they were rebuffed. Soon, thereafter, another group - a UVM book club called the “UVM Revolutionary Socialist Union” - also posted that Jewish Zionists were not welcome in that club.

Last week, on Friday evening, September 24, 2021, the UVM Hillel building was targeted. A group of UVM students threw small rocks at the windows of students living in the dormitory portion of the building. When one student whose window had been pelted called out asking the perpetrators to stop throwing things, one of the students responsible for the rock throwing shouted, “Are you Jewish?”

For months, a university Teaching Assistant (“TA”) has repeatedly sought to marginalize and ostracize those Jewish students who demonstrate pride in their shared Jewish ancestry and ethnicity by expressing support for a Jewish homeland. During the last half-year, she has threatened to lower the grades of Jewish students for whom Zionism is integral to their Jewish identity, and has encouraged others to cyber bully and ostracize these Jewish students.

All of these incidents – the exclusion of Jewish Zionist students from UVM student groups, the targeting of the Hillel building, and the TA’s social media posts - have been reported to the UVM administration. In addition, on information and belief, on multiple occasions, UVM students have met with UVM administrators and shared stories with them of how the students have been personally harassed and harmed by the hostile anti-Semitic environment on campus. To date, however, the university has taken no steps to rectify the situation.

² UVM Empowering Survivors (@shareyourstoryuvm), Post, INSTAGRAM (Apr. 29, 2021), <https://www.instagram.com/p/COREzQKLWKO/> (last visited Oct. 1, 2021).

³ UVM Empowering Survivors (@shareyourstoryuvm), INSTAGRAM, <https://www.instagram.com/shareyourstoryuvm/?hl=en> (last visited Oct. 1, 2021).

⁴ *UVM Facts*, UNIV. OF VT., https://www.uvm.edu/uvm_facts (last visited Oct. 1, 2021).

The University of Vermont is permitting a hostile environment that marginalizes and excludes Jewish students for whom Zionism is integral to their Jewish identity. In doing so, UVM is denying equal access to educational opportunities and services to Jewish students on the basis of their shared ancestry and ethnicity in violation of Title VI of the Civil Rights Act of 1964.

For the foregoing reasons, and as detailed more fully in this Complaint, the Louis D. Brandeis Center for Human Rights Under Law (the “Brandeis Center” or “LDB”) and Jewish on Campus (“JOC”)⁵ request that the Office for Civil Rights (OCR) initiate an investigation of UVM, a recipient of federal financial assistance,⁶ for violations of Title VI of the Civil Rights Act of 1964 (Title VI) and the statute’s implementing regulations.⁷

II. For many Jewish students at UVM, Zionism is an integral component of their Jewish ethnic identity.

Guidance issued in 2004 by the Office for Civil Rights (OCR) and the Department of Justice (DOJ) extended protections under Title VI to cover discrimination against Jews on the basis of their “actual or perceived shared ancestry or ethnic characteristics.”⁸ For many Jews, including many Jewish students at UVM, Zionism is an integral component of Jewish ethnic identity. Historically and legally, Judaism is understood to be both a faith and an ethnicity. Jews share not only religious

⁵ Jewish on Campus (“JOC”) is a 501(c)(3) nonprofit organization founded and run by Jewish college students, for Jewish college students. Since its founding in 2020, JOC has collected stories of anti-Semitism from thousands of students around the world and has assisted in creating change on campus.

⁶ Jeffrey R. Wakefield, *With Dramatic Gain, UVM Sets New Record for Research Funding*, UNIV. OF VT. (Aug. 7, 2020), <https://www.uvm.edu/news/story/dramatic-gain-uvm-sets-new-record-research-funding>.

⁷ See 42 U.S.C. § 2000d *et seq.*; see also 34 CFR §§ 100.3(b)(1)(i), (iv), (vi).

⁸ See Russlynn Ali, “*Dear Colleague Letter* at 2–3, U.S. DEP’T EDUC.–OFFICE FOR C.R. (Oct. 26, 2010) [hereinafter 2010 Dear Colleague Letter],

<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf> (explaining a university must take “prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring”), see also Letter from Thomas E. Perez, Assistant Att’y Gen., U.S. Dep’t of Just.–C.R. Div., to Russlyn H. Ali, Assistant Sec’y for C.R., U.S. Dep’t of Educ.–Office for C.R., *Re: Title VI and Coverage of Religiously Identifiable Groups* (Sep. 8, 2010), https://www.justice.gov/sites/default/files/crt/legacy/2011/05/04/090810_AAG_Perez_Letter_to_Ed_OCR_Title%20VI_and_Religiously_Identifiable_Groups.pdf; Kenneth L. Marcus, *Title VI and Title IX Religious Discrimination in Schools and Colleges: Dear Colleague Letter*, U.S. DEP’T OF EDUC.–OFFICE FOR C. R. (Sep. 13, 2004), <https://www2.ed.gov/about/offices/list/ocr/religious-rights2004.html>.

traditions, but also a deep historical sense of Jewish peoplehood. The Jewish people's history, theology, and culture are deeply intertwined with the Land of Israel.⁹ For many Jews, including many Jewish students at UVM, expressing support for the Jewish homeland is a sincere and deeply felt expression of the Jewish people's shared ancestral, religious, and ethnic identification with the Land of Israel.

Zionism is as integral to Judaism as observing the Jewish Sabbath or maintaining a kosher diet. Of course, not all Jews observe the Sabbath or keep kosher, but those who do clearly are expressing important components of their Jewish identity. Similarly, not all Jews are Zionists. But for many Jews, including many Jewish students at UVM, identifying with and expressing support for the Jewish homeland is also a sincere and deeply felt expression of their Jewish ethnic identity. Harassing, marginalizing, demonizing, and excluding these Jewish students on the basis of the Zionist component of their Jewish identity is just as unlawful and discriminatory as attacking a Jewish student for observing the Sabbath or keeping kosher. Indeed, UNESCO has cautioned that "Jew" and "Zionist" today are often used interchangeably in an attempt by anti-Semites to cloak their hate.¹⁰

Thus, when Jewish students at UVM are castigated as "Zionists" and marginalized and excluded from student organizations for demonstrating pride in their Jewish ancestry and heritage, they are being targeted and harassed on the basis of their "actual or perceived shared ancestry or ethnic characteristics" in violation of Title VI of the Civil Rights Act of 1964.¹¹

III. Statement of Facts

a. UVM Empowering Survivors and ShareYourStoryUVM

On May 3, 2021, thousands of UVM students staged a solidarity walkout to demonstrate support for victims of sexual assault and to protest the University of Vermont's handling of sexual

⁹ Alyza D. Lewin, *Zionism: The Integral Component of Jewish Identity that Jews are Historically Pressured to Shed*, 26 ISRAEL AFFAIRS 330 (2020), available at <https://brandeiscenter.com/wp-content/uploads/2020/08/Zionism-The-integral-component-of-Jewish-identity-that-Jews-are-historically-pressured-to-shed.pdf>.

¹⁰ See UNESCO & OSCE, ADDRESSING ANTI-SEMITISM THROUGH EDUCATION: GUIDELINES FOR POLICYMAKERS 21, 24, 82–83 (2018), <https://unesdoc.unesco.org/ark:/48223/pf0000263702.locale=en>.

¹¹ Lewin, *supra* note 9; see also sources, *supra* note 8.

assault allegations.¹² The demonstration galvanized students across campus. In the lead-up to the rally, students organized the group “UVM Empowering Survivors” and established an Instagram account “ShareYourStoryUVM” as a place for victims to anonymously share their experiences involving sexual harassment and assault.¹³ In its first post, on April 29, 2021, UVM Empowering Survivors described itself and the purpose of the ShareYourStoryUVM Instagram page as follows:

We are Empowering Survivors UVM, a collective of University of Vermont students (both survivors and allies) who will no longer tolerate the culture of sexual assault and dismissal of survivors that is perpetuated by the UVM administration and students.

None of this would be possible without the courage, strength and resilience of survivors who have and continue to speak out against their abusers. We are so sorry you had to. We send the utmost care, compassion and gratitude to you.

This space is yours to claim and build. Please use the anonymous form to submit your stories and experiences of sexual assault, abuse and harassment. We will post them in their entirety and fullness anonymously.

UVM does not keep us safe. The Title IX office does not keep us safe. And the administration refuses to take serious steps to reform these broken institutions and continues to protect known serial rapists and abusers.

We keep each other safe.

In power,
Empowering Survivors UVM¹⁴

¹² See Flanders, *supra* note 1; Alex Abrami, 'Countless me-toos': UVM's response to sexual assaults must change school, students agree, BURLINGTON FREE PRESS (May 3, 2021, 8:47 PM), <https://www.burlingtonfreepress.com/story/news/education/university-of-vermont/2021/05/03/uvmprotest-kendall-ware-sexual-assault-handling-outrages-students-uvmpowering-survivors-metoo/4927912001/>; Ella Ruehsen, *Thousands call on UVM to reform handling of sexual violence*, VT. CYNIC (May 4, 2021), <https://vtcynic.com/news/thousands-call-on-uvmtoreform-handling-of-sexual-violence/>, (last visited Oct. 1, 2021).

¹³ UVM Empowering Survivors, INSTAGRAM, *supra* note 3.

¹⁴ UVM Empowering Survivors, Post, INSTAGRAM, (Apr. 29, 2021), *supra* note 2.

On May 3, 2021, UVM Hillel posted on its Instagram account a statement of support for victims of sexual assault.¹⁵

On May 12, 2021, motivated by events taking place in Israel and Gaza, UVM Empowering Survivors posted a message on the ShareYourStoryUVM Instagram page. The message accused the Israeli government of inflicting “horrors . . . upon the Palestinians” and falsely claimed that the “IDF [Israel Defense Forces] and Israelis . . . put so many Palestinians” through “disgusting sexual abuse.” The student group then stated that it will “follow the same policy with Zionists that we follow with those trolling or harassing others: blocked.” The group added “we will not be engaging in conversation about . . . Zionism.”¹⁶

When Jewish students reached out via direct (private message) to UVM Empowering Survivors seeking dialogue and expressing concern over the support group’s attitude toward Zionists, the Jewish students were rebuffed. UVM Empowering Survivors responded:

As we are a page dedicated to supporting and sharing the stories of survivors in the UVM community and as we explicitly stated in that story that we are not going to engaging [sic] about this topic. We are an anti-Zionist group¹⁷

On May 12, in response to a growing number of hostile social media posts targeting Jewish Zionists, including the UVM Empowering Survivors’ post, UVM Hillel posted the following message to its Instagram account:

We are aware of the recent vulgar antisemitism that Jewish students are experiencing online from student accounts at UVM regarding current events.

We have reached out to UVM with our deep concern.

Jewish students have every right to be Jewish in their own way and not attacked and have their lived experience minimized for their religious beliefs, personal practice, or connection to Israel.

DM us and we will help amplify your voice, you aren’t alone.

¹⁵ UVM Hillel (@uvmhillel), Post, INSTAGRAM (May 3, 2021), <https://www.instagram.com/p/CObhLoBL-7r/>. Screenshot included in Attachment A to this Complaint.

¹⁶ UVM Empowering Survivors (@shareyourstoryuvm), Story, INSTAGRAM (May 14, 2021), <https://www.instagram.com/stories/highlights/17881527287207535/?hl=en> (last visited Oct. 1, 2021) (see tiles 2-3). Screenshots of the full post are included in Attachment A to this Complaint.

¹⁷ Screenshot included in Attachment A to this Complaint.

We highly encourage you to fill out a Bias Response Form (anonymously or otherwise) so UVM can be aware of your experience and respond accordingly. Link in bio.¹⁸

On May 13, 2021, UVM Hillel posted an “Update on Recent Antisemitism” to its Instagram account, including the following:

More than 60 students came to Hillel today and more than 100 DM'd our staff because "they had nowhere else to go." The onslaught of antisemitism they are experiencing online and among their UVM community is unyielding.

Based on vulgar and damaging social media posts yesterday from a student-run social media account, we facilitated a conversation with survivors and students with UVM's Bias Response Team representatives. The intent was to communicate the damage and pain that Jewish people, and in particular Jewish survivors of sexual assault, experience both from the post and from the messages that followed from others in the UVM community.

I expect UVM to respond in the coming days to that very difficult meeting and will update accordingly. I am so proud of the students who were brave enough to share their story publicly and privately, thank you.

No student on our campus should feel unsafe in their identity, unsafe in their homes, and unsafe going to an affinity space on campus.

A Jewish student's experience of antisemitism as a Jewish person is theirs to define. UVM Hillel will not let our student community's experience of antisemitism on campus be belittled or explained away because of a presumed or direct connection to Israel.¹⁹

In response to the UVM Hillel post, on May 14, UVM Empowering Survivors posted a five-part “Update re: Palestine” to its Instagram account. In that post, the support group apologized to

¹⁸ UVM Hillel (@uvmhillel), Post, INSTAGRAM (May 12, 2021), <https://www.instagram.com/p/COyp0fXN3ab/>. Screenshot included in Attachment A to this Complaint.

¹⁹ UVM Hillel (@uvmhillel), Post, INSTAGRAM (May 13, 2021), <https://www.instagram.com/p/CO1XNPXtqLW/>.

those “who identify as Jewish and believe our stances and opinions to be harmful and anti-Semitic.” The group re-emphasized, however, that it “cannot stand with . . . Zionists.” It alleged that UVM Hillel has never “stood on the side of the oppressed.” And concluded, that the support group must “hold our peers accountable for their pro-Israel or Zionist stances.”²⁰

UVM Empowering Survivors thereby shut out and excluded from the largest and most impactful support group on campus those Jewish students who take pride in their Jewish ancestral, ethnic heritage and the Jewish people’s ancient connection to the Land of Israel. They blamed these students for the alleged actions of a foreign government over which the students have no control, and concluded that these students must be held “accountable.”

This discriminatory conduct caused significant psychological pain and emotional trauma to Jewish students, particularly those who are victims of sexual harassment and assault. Jewish UVM students, who had found comfort in this university-wide support group, found themselves suddenly and unceremoniously expelled on the basis of their Jewish identity.

b. UVM Revolutionary Socialist Union

On May 1, 2021, UVM students launched a new book club called “UVM Revolutionary Socialist Union.” (“RSU”) The RSU book club is listed on the webpage of UVM Book Club (a recognized student organization) as one of the UVM Book Club “Book Groups.”²¹

The club is described on the UVM Book Club website as follows:

We’re a new club on campus – founded May 1 2021 – that intends to function and organize like a traditional union, but our goal is to introduce UVM students to revolutionary socialist and anticolonial thought through the works of various thinkers, writers and leaders throughout history. We also are undertaking direct action initiatives in Burlington and the surrounding area, so if you’re looking for a book club that will help your political education while also giving you a chance to get involved in the community, the RSU is for you. Our first official reading topic is Black liberation in the United States, Africa, and beyond.²²

²⁰ UVM Empowering Survivors, Story, INSTAGRAM, *supra* note 15 (see tiles 4-8). Screenshots included in Attachment A to this Complaint.

²¹ UVM Book Club, *Book Groups*, <https://bookclub.w3.uvm.edu/groups/> (last visited Oct. 1, 2021).

²² UVM Book Club, *Revolutionary Socialist Union*, <https://bookclub.w3.uvm.edu/groups/rsu/> (last visited Oct. 1, 2021).

In its inaugural social media post, the RSU specified that Zionists are not welcome in the club. In that Instagram post on May 1, the RSU noted: “No racism, racial chauvinism, predatory behavior, homophobia, transphobia, Zionism, or bigotry and hate speech of any kind will be tolerated.”²³ The RSU Official Constitution and Bylaws similarly require every RSU member to pledge “NO” to Zionism.²⁴

RSU is eligible to receive UVM funding as a subset of the UVM Book Club, a UVM recognized student organization. Students have complained to UVM administrators about RSU’s discriminatory practices. Yet, to date, the university has taken no steps to disqualify RSU or sanction the UVM Book Club for hosting an organization that explicitly excludes from membership Jewish students for whom Zionism is integral to their Jewish ethnic identity.

c. Targeting of UVM Hillel Building on September 24, 2021

On Friday evening, September 24, 2021, the UVM Hillel Building was targeted by a group of rowdy, intoxicated students who began throwing small rocks at the windows of the building. When one student living in the dormitory portion of the building called out to the perpetrators and asked them to stop throwing things, one of the students responsible for the rock throwing responded, “Are you Jewish?” The incident reportedly lasted approximately 30-40 minutes. The students who targeted the building eventually moved to the rear of the building where they began throwing items with a sticky substance at the building. (Photos of the sticky substance on the rear door of the building are included in Attachment B to this Complaint.) Since being made aware of this incident, University administrators have refused to recognize the incident as a bias incident even though the perpetrators appear to have targeted the building due to its Jewish occupants.

d. UVM Teaching Assistant [REDACTED] [REDACTED]

[REDACTED] [REDACTED] was a Senior at the University of Vermont during the 2020-2021 academic year. She has served as Resident Advisor²⁵ for the University and as a Teaching Assistant.

²³ UVM Revolutionary Socialist Union (@uvm_rsu), Post, INSTAGRAM (May 1, 2021), <https://www.instagram.com/p/COVe0nSnDM9/>.

²⁴ UVM REVOLUTIONARY SOCIALIST UNION OFF. CONST. AND BYLAWS § II (est. May 1, 2021 and “slated to be ratified September 30, 2021”), <https://docs.google.com/document/d/1kCPLCPG-hQNMe7R2ZLU85ITphbuPREbzGbwEnxY5Ouc/edit> (last visited Oct. 1, 2021) (on file with complainant).

²⁵ United Academics, *2021 Scholarship Recipients*, <https://www.unitedacademics.org/scholarship-recipients> (last visited Oct. 1, 2021).

Upon information and belief, ██████████ is both a graduate student at UVM and is serving as a Teaching Assistant during the current 2021-2022 academic year.

Throughout her tenure at UVM, ██████████ has repeatedly harassed, marginalized, ostracized and bullied Jewish students who demonstrate pride in their shared Jewish ancestry and ethnicity by expressing support for the Jewish homeland, Israel.

On April 5, 2021, ██████████ threatened in a tweet to reduce the grades of UVM's Jewish Zionist students. She wrote: "is it unethical for me, a TA, to not give zionists credit for participation???"i feel like its good and funny, -5 points for going on birthright²⁶ in 2018, -10 for posting a pic with a tank in the Golan heights, -2 points just cuz I hate ur vibe in general" (See Exhibit 1)

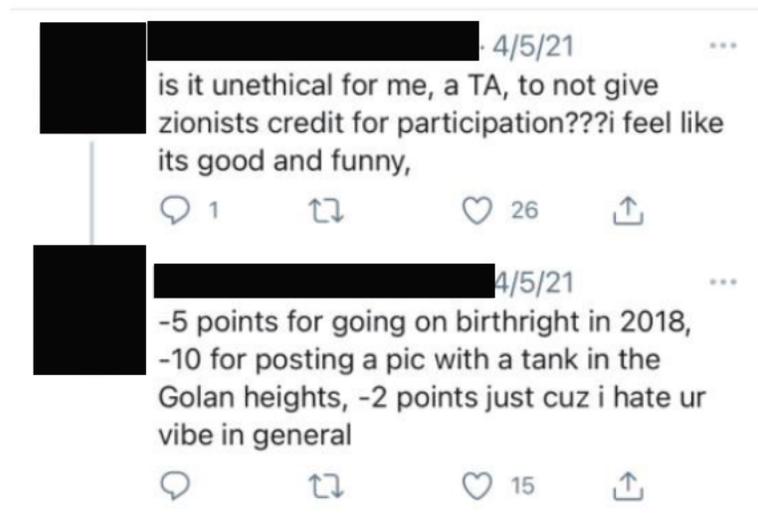


Exhibit 1

Threatening to reduce the grades of any student due to their religion, race, national or ethnic origin, is a violation of UVM's anti-discrimination policy²⁷ and the state and federal laws upon which that policy is based. As a teaching assistant, ██████████ was and is responsible for "administering [the university's] educational policies."²⁸ By threatening to reduce the grades of

²⁶ Birthright is a free 10-trip to Israel designed to educate young Jewish adults about their heritage and foster a sense of Jewish identity.

²⁷ Office of Audit and Compliance Services, *Equal Opportunity in Educational Programs and Activities and Non-Harassment*, UVM Policy # 4.24.11, UNIV. OF VT. (last reaffirmed Feb. 8, 2021), <https://www.uvm.edu/sites/default/files/UVM-Policies/policies/equaledu.pdf>.

²⁸ *Id.*

“Zionists,” ██████████ openly promoted discrimination on the basis of “national or ethnic origin.” Furthermore, by posing her tweet as a question, ██████████ riled up her twitter followers, inviting them to agree that Jewish Zionist students be treated in this discriminatory fashion. By promoting antagonism toward Jewish Zionist students, ██████████ – acting as a representative of the university – fostered a hostile environment for Jewish UVM students.

██████████ repeatedly encourages her followers to cyber bully Jewish students for whom Zionism is integral to their Jewish identity. She also clearly relishes cyber bullying these students herself. For example, on April 15, 2021, ██████████ tweeted, “i’m trying to be lowkey on social media for ramadan and it’s going okay so far but [name redacted] keeps sending me Instagram posts from UVM Zionist Instagram accounts and I get the indelible surge to cyber bully and religion goes out the window. i never learn” (Exhibit 2).



Exhibit 2

On May 11, 2021, [REDACTED] tweeted, “serotonin rush of bullying Zionists on the public domain >” (Exhibit 3).



Exhibit 3

On May 12, 2021, “Yachad” (an Instagram account organized by a group of Jewish students at UVM) posted a “Statement regarding recent violence in Israel/Palestine” to its Instagram account.²⁹ As part of the statement, the Yachad students noted: “We have witnessed many horrific things being said and done to the Israeli and Jewish communities in response to the events currently unraveling in Jerusalem. We have been personally attacked in the process. The same individuals who only interact with our page when it is related to Israel have called upon their followers to verbally harass us. We want to talk about why such harmful persuasion is problematic and unacceptable.” (Exhibit 4)

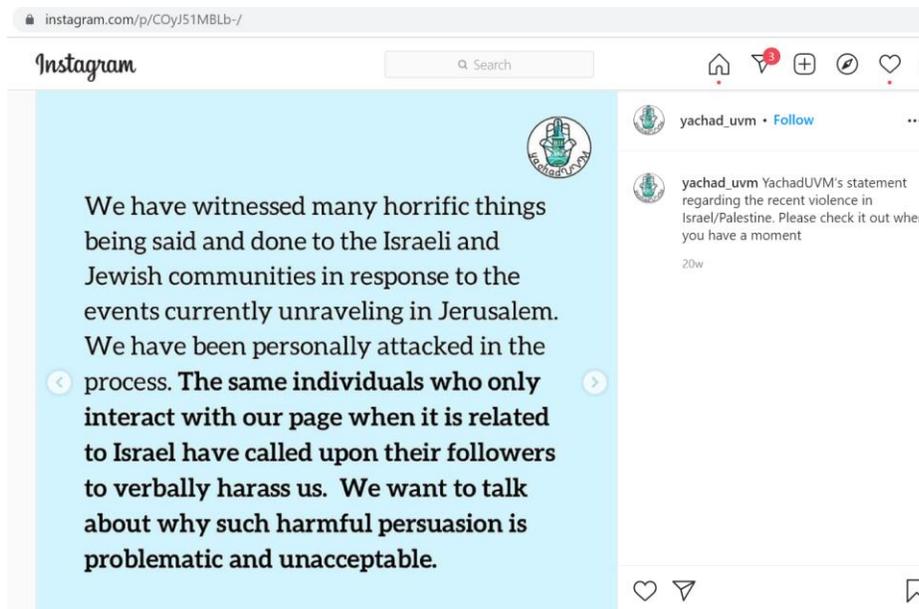


Exhibit 4

²⁹ YachadUVM (@yachad_uvm), *Statement regarding the recent violence in Israel/Palestine*, Post, INSTAGRAM, (May 12, 2021) <https://www.instagram.com/p/COyJ51MBLb-/> (last visited Oct. 1, 2021).

In response to the Yachad post, on May 12, 2021, a UVM student posted a copy of the title page of the Yachad post next to a meme containing a collage of photos of muscular men at computers and the words, “Right, is everybody logged on? Excellent, let the cyber bullying begin.” The student added “[furious typing noises]” above the image. In response, [REDACTED] commented “turned off comments :(” noting her dismay at being unable to harass the Yachad students. (Exhibit 5)



Exhibit 5

In a May 11, 2021, post, ██████████ confirmed that her “next step is to make zionism . . . worthy of public condemnation.” According to her post, participating in a free [Birthright] trip to Israel, recognizing “both sides” of the Arab Israeli conflict, or merely stating that “my family lives in tel aviv” renders an individual “worthy of private and public condemnation.” ██████████ expressed intent is to ostracize Jewish students who express pride in their ancestral ethnic Jewish heritage by supporting the Jewish homeland, Israel. ██████████ repeated, hostile social media posts have created “an objectively intimidating, hostile, or offensive environment”³⁰ for Jewish students at UVM. (Exhibit 6)



Exhibit 6

³⁰ VT. STAT. ANN. tit. 16, § 11(a)(26)(A).

██████████ has promoted not only verbal harassment of Jewish Zionists, but also vandalism of the Jewish flag. On May 14, after an Israeli flag was stolen from off-campus student housing, ██████████ publicly praised the perpetrator. “who stole the Israeli flag on s union?” she tweeted. “I just wanna talk and tell you how cool and special and loved you are may the wind always be at your back “ (Exhibit 7)



Exhibit 7

On May 16, [REDACTED] again praised the unknown individual who stole the flag, tweeting: “at this stage in the game I don’t even want to know who stole it anymore I just want to defend their honour They are like the spider-man of Burlington, anonymously doing good.” (Exhibit 8)

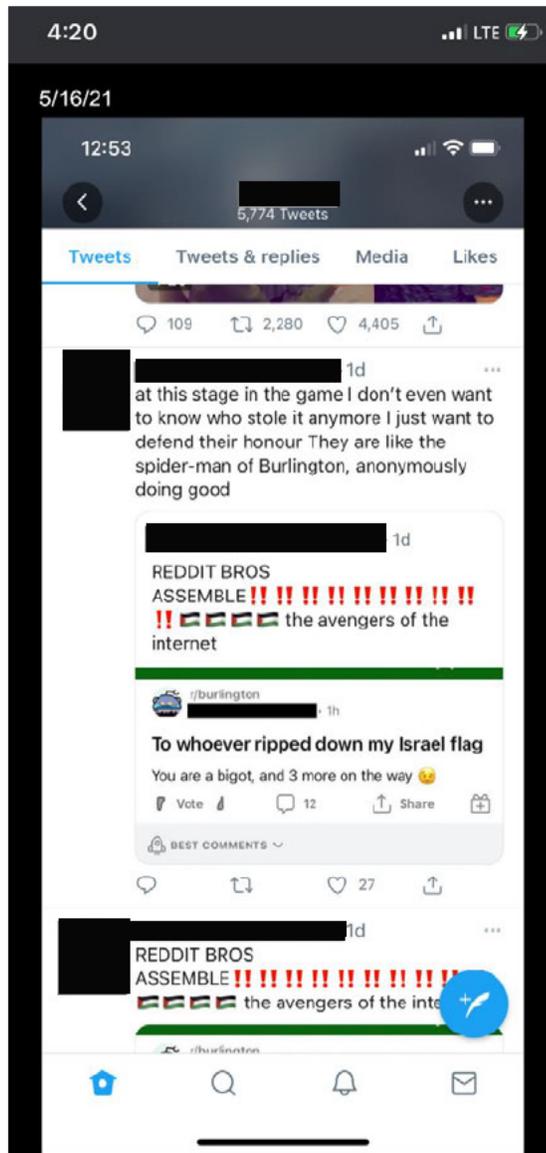


Exhibit 8

The tweets included here represent only a portion of [REDACTED] social media posts targeting Jewish Zionists.

It cannot be supposed that [REDACTED] incessant and targeted attacks upon Jewish Zionist students, her threat to reduce their grades, her encouragement to cyber bully them, her demand that they be treated as pariahs, and her support for vandalism of the Jewish Israeli flag, is somehow privileged “free speech” divesting UVM of any responsibility to remedy. [REDACTED] disparagement of the particular manner in which many UVM students choose to identify as Jewish, and her campaign to deny these Jewish students an equal opportunity to participate in UVM student life on that basis, free from harassment and discrimination, violate the university’s code of conduct, state and federal law, and Title VI.

[REDACTED] social media posts go beyond mere expression. With her posts, she has threatened to treat Jewish Zionist students in a discriminatory fashion, and has urged others to join her in bullying and ostracizing students based on their Jewish Zionist identity. As a teaching assistant and representative of UVM, she has helped foster the hostile environment on campus that has made it possible for student organizations like UVM Empowering Survivors and the UVM Revolutionary Socialist Union Book Club to exclude Jewish Zionists. Her conduct has been brought to the attention of the university. UVM’s administration, however, has failed to take any action. [REDACTED] continues to serve as a TA, representing the University while publicly flaunting its code of conduct.

IV. UVM Students have felt compelled to hide their Jewish identity due to fear of harassment and discrimination.

Several UVM students have felt compelled to hide their Jewish identity as a result of the hostile environment and to avoid harassment and discrimination on campus. Students have expressed fear about identifying publicly as Jewish and have considered transferring out of UVM due to the hostile environment toward Jews on campus. The following statements were provided to Jewish on Campus and the Brandeis Center by students who asked that their names be withheld to protect their identities.

Student 1: “A student group on campus that is supposed to be advocating against sexual assault told Zionist Jews basically that their assaults didn’t matter and that they had to be held responsible the same way as people who committed it. As a survivor myself, I felt isolated. When I came back to campus this Fall, I didn’t hang my Mezuzah on the wall outside my door because of fear of antisemitism.”

Student 2: “I wore a Jewish-identifying necklace every day until I began to feel unsafe at UVM due to antisemitic rhetoric on campus and on social media as well as personal antisemitic messages that I received. Antisemitism on campus has caused my mental health to decline and has caused multiple anxiety/panic attacks, and I no longer wear Jewish-identifying items as I feel unsafe.”

Student 3: “If it were not for the immense support I have gotten from UVM Hillel staff and students, I would have left UVM a long time ago and never returned. I genuinely considered transferring over the summer, going as far as to meet with a college coach and re-open the Common App. I talk to my Jewish friends at colleges all over the New England area, and they are all appalled that I am still here. My mental health has suffered immensely, and the various antisemitic incidents on campus and online have left me suffering with feelings of loneliness, depression, and hopelessness. I am tired of feeling scared on my own college campus. I am tired of feeling anxious to wear my Star of David. I am tired of being scared to mention my Judaism or connection to Israel to people in my college classes, afraid that they will cut all contact with me if they find out who I truly am. I want to feel like I am a part of this college, but I feel more disconnected with each antisemitic incident that occurs. Jewish students on campus deserve better, and we deserve to feel safe.”

V. UVM has Violated Title VI of the Civil Rights Act of 1964

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin in educational institutions that receive federal funding.³¹ Harassment creates a “hostile environment” for purposes of Title VI when it “is sufficiently severe, pervasive, or persistent so as to interfere with or limit a student’s ability to participate in or benefit from the services, activities, or opportunities offered by a school.”³² 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.”³³ Further, OCR has explained that a university can violate Title VI if peer harassment “is sufficiently serious that it creates a hostile environment and such harassment is encouraged, tolerated, not adequately addressed, or ignored by school employees.”³⁴

³¹ See 42 U.S.C. § 2000d *et seq.*

³² See 2010 Dear Colleague Letter, *supra* note 8, at 2 (“[Under Title VI, a] school is responsible for addressing harassment incidents about which it knows or reasonably should have known”).

³³ *Id.* at 2-3.

³⁴ *Id.* at 1.

Guidance issued by the OCR and DOJ since 2004 has extended protections under Title VI to cover discrimination against Jews on the basis of their “actual or perceived shared ancestry or ethnic characteristics.”³⁵ As clarified in Executive Order 13899 (the Executive Order), Title VI must be enforced “against prohibited forms of discrimination rooted in anti-Semitism as vigorously as against all other forms of discrimination prohibited by Title VI.”³⁶ Further, the Executive Order directs the Department of Education to refer to the International Holocaust Remembrance Alliance working definition of antisemitism (the IHRA Definition) and its contemporary examples, when investigating allegations of anti-Semitism under Title VI.³⁷

The Executive Order is particularly relevant here, where the unlawful harassment and discrimination are motivated by anti-Semitic bias and target UVM students on the basis of their actual or perceived shared ancestry and ethnic Jewish identity. The IHRA Definition and, more specifically, the contemporary examples it cites, provide helpful guidance for understanding why the anti-Semitic harassment directed at UVM students is targeted, intentional, and discriminatory intimidation on the basis of their Jewish identity. The IHRA Definition states that “the denial to Jews of opportunities or services available to others” is “antisemitic discrimination.” Certainly, the exclusion of UVM’s Jewish students from student organizations on the basis of the students’ Jewish identity constitutes anti-Semitic discrimination. Further, the suggestion that these students’ Jewish identity somehow renders them deserving of “public condemnation” or renders them unfit to belong to student support groups and book clubs, revives the age-old anti-Semitic accusation of dual-loyalties; it implies that these students are more loyal “to Israel, or to the alleged priorities of Jews worldwide,” than to the interests of the UVM community.³⁸ Further, under IHRA, denying the Jewish people’s right to self-determination (and by extension, denying Jewish students’ right to support the Jewish homeland) is an indicium of anti-Semitism.³⁹

Under Title VI, a university must respond to discriminatory harassment when such harassment “negatively affect[s] the ability and willingness of Jewish students to participate fully in

³⁵ See, e.g., *Id.* at 5; see also Letter from Thomas E. Perez, *supra* note 8; Marcus, *supra* note 8.

³⁶ Exec. Order No. 13899 §1, 3 C.F.R. 68779-68780 (2019); see also *Questions and Answers on Executive Order 13899 (Combating Anti-Semitism and OCR’s Enforcement of Title VI of the Civil Rights Act of 1964)*, U.S. DEP’T EDUC.–OFFICE FOR C.R. (Jan. 19, 2021), <https://www2.ed.gov/about/offices/list/ocr/docs/qa-titleix-anti-semitism-20210119.pdf>.

³⁷ See *id.* at §2(a)(i) and (ii); see also INT’L HOLOCAUST REMEMBRANCE ALLIANCE, *Working Definition of Antisemitism*, <https://www.holocaustremembrance.com/working-definition-antisemitism> (last visited Oct. 1, 2021) [hereinafter IHRA Definition].

³⁸ IHRA Definition, *supra* note 37 (articulating the contemporary examples of anti-Semitism).

³⁹ *Id.* (explaining that “[d]enying the Jewish people their right to self-determination” is a form of anti-Semitism).

the school's education programs and activities."⁴⁰ In this case, UVM has not taken steps to ameliorate the harassment targeting Jewish students that has prevented these students from feeling safe on campus and prevented them from fully participating in student organizations and clubs. To this day, there are Jewish students at UVM who are explicitly excluded from campus student organizations due to their Jewish identity.

UVM is legally obligated to protect these students from the anti-Semitic harassment that has marginalized and excluded them on the basis of their Jewish identity. This harassment has denied the students an equal opportunity to enjoy the benefits of UVM's educational and extra-curricular offerings.

VI. Suggested Remedies: OCR should require UVM to come into compliance with Title VI by eliminating the hostile environment and its effects, preventing the harassment from recurring, and ensuring that Jewish students have equal access to all educational opportunities at UVM.

In light of UVM's failure to (1) address the anti-Semitic harassment and discrimination that targets UVM Jewish students on the basis of their shared ancestry and ethnic Jewish identity, (2) take steps to eliminate the hostile atmosphere and its effects for Jewish students at UVM, and (3) ensure equal access to all UVM organizations, clubs and activities for all Jewish students, OCR should require UVM to take the following steps to come into compliance with Title VI.

a. UVM must ensure that student clubs are equally accessible to all students regardless of race or national origin.

UVM must establish policies and procedures to ensure that no UVM student is denied access to any UVM student organizations, or excluded from full access to the benefits of any such organization, on the basis of race or national origin, including Jewish identity and must provide notice to all students of this change.

b. UVM must investigate discriminatory practices by student groups and ensure that all barriers to nondiscriminatory access are eliminated.

UVM must investigate the practices of all UVM student organizations, including the RSU club and UVM Empowering Survivors, to ensure that all students are provided equal access to their services, benefits, and resources, regardless of race or national origin and provide OCR with a report of such investigation within six months. In particular, any group that has limited or denied access or

⁴⁰ 2010 Dear Colleague Letter, *supra* note 8, at 5–6.

services to any UVM student organization must provide public notice that it has eliminated the practices by which students were denied and that all students are equally welcome. Within nine months, UVM must provide OCR with a report on actions taken to address its findings.

c. UVM must adopt the International Holocaust Remembrance Alliance Working Definition of Anti-Semitism and its contemporary examples

UVM must issue a public statement announcing that it will officially adopt and utilize the IHRA Working Definition of Anti-Semitism and its contemporary examples when investigating and responding to incidents of harassment and discrimination at UVM to determine whether they are motivated by anti-Semitic animus or bias. The University must further state that it encourages the UVM community to educate itself about the many manifestations of anti-Semitism by reading and studying the IHRA Definition and its contemporary examples.

d. UVM must issue a statement denouncing anti-Semitism in all its forms and recognizing that Zionism is a key component of Jewish identity for many students at UVM.

The University must issue a public statement condemning the anti-Semitic harassment on social media that targets members of UVM's Jewish community on the basis of their religious, ancestral, and ethnic identity. In particular, the University must make clear that [REDACTED] tweets encouraging her followers to bully, ostracize or otherwise treat Zionist students in a discriminatory fashion, is unacceptable conduct for a TA.

The University statement must recognize that for many Jewish students at UVM, Zionism is a key component of their religious, shared ancestral, and ethnic identity, and that harassing, demonizing, or excluding anyone on the basis of such identity is unacceptable. Further, the University must publicly announce that it will utilize the IHRA Definition and its contemporary examples when determining whether harassment or discrimination is motivated by anti-Semitic animus. We strongly urge the University to use or model its statement on the following language:

We condemn antisemitism in all its forms. We recognize that Zionism is a key component of the religious and ethnic identity of many students on our campus. Efforts to demonize Zionism and make these UVM students feel unsafe expressing this part of their religious and ethnic identity is contrary to our university's basic values of mutual respect and inclusion. Our university must be a place for the free and open exchange of ideas. It is never acceptable to harass, intimidate, marginalize, exclude, or demonize any part of our university community on the basis of its identity.

The University is committed to taking all necessary actions, including discipline where appropriate, to address and ameliorate discrimination and harassment based on shared ancestry or ethnic characteristics, including anti-Semitism that manifests as anti-Zionism.

To that end, the University will utilize the IHRA Working Definition of Anti-Semitism when investigating and responding to incidents of harassment and discrimination to determine whether they are motivated by anti-Semitic animus or bias. The University encourages the UVM community to educate itself about the many manifestations of anti-Semitism by reading and studying the IHRA Definition and its contemporary examples.

- e. UVM must revise its “Equal Opportunity in Educational Programs and Activities and Non-Harassment Policy” to include a prohibition on discrimination based on shared ancestry and ethnicity, including anti-Semitism as defined in Executive Order 13899 and, more specifically, in the IHRA Working Definition of Antisemitism and IHRA’s Contemporary Examples.**

The University must revise its “*Equal Opportunity in Educational Programs and Activities and Non-Harassment Policy*” (Policy) to include a prohibition on discrimination based on shared ancestry and ethnic characteristics, including anti-Semitism as defined in Executive Order 13899 and, more specifically, in the IHRA Working Definition and IHRA’s contemporary examples of anti-Semitism.⁴¹ The revised Policy should include a description of the forms of anti-Semitism that can manifest in the University environment and provide examples of discrimination on the basis of shared ancestry and ethnic characteristics, which must include the contemporary examples of anti-Semitism in the IHRA Definition.

- f. The University must conduct mandatory training for the University community regarding its revised Policy that includes a specific focus on the different manifestation of anti-Semitism including anti-Zionism and national origin-based discrimination.**

The University must conduct training for the University community, including students, faculty, staff, administrators, and campus security, concerning the revised Policy and its implementation. Such training must include programming and educational materials about national

⁴¹ UVM Policy # 4.24.11, *supra* note 27.

origin discrimination and harassment, which specifically address the many manifestations of anti-Semitism and incorporate the IHRA Working Definition and its contemporary examples.

g. UVM must create a Task Force to review, address, and improve Jewish life on the UVM campus.

UVM must create a Task Force comprised of Jewish student leaders and Jewish faculty members that will provide input to the UVM administration about how best to address and improve Jewish life on the UVM campus, including how to address and ameliorate anti-Semitic harassment and discrimination based on shared ancestry or ethnicity.

VII. Conclusion

For the foregoing reasons, the Brandeis Center and Jewish on Campus strongly urge investigation into UVM's compliance with Title VI.

Respectfully Submitted,



Alyza D. Lewin, President



Denise Katz-Prober, Director of Legal Initiatives

Attachments

ATTACHMENT A

UVM Hillel Instagram (@uvmhillel)
<https://www.instagram.com/p/CObhLoBL-7r/>



The image shows an Instagram post from the account @uvmhillel. The main content is a yellow graphic with a black circular logo at the top left that reads "UVM HILLEL STUDENT BOARD" around a central emblem. Below the logo, the text "THE UVM HILLEL STUDENT BOARD BELIEVES SURVIVORS AND DEMANDS JUSTICE" is written in large, bold, green capital letters. To the right of the graphic is the Instagram interface, showing the user's profile name "uvmhillel" with a "Follow" button, the post text "uvmhillel **TW: SA**" followed by a paragraph of text, and interaction icons for likes, comments, shares, and saves. The post has 121 likes and is dated MAY 3.

UVM HILLEL STUDENT BOARD

THE UVM HILLEL STUDENT BOARD BELIEVES SURVIVORS AND DEMANDS JUSTICE

Hillel uvmhillel • Follow

Hillel uvmhillel **TW: SA**

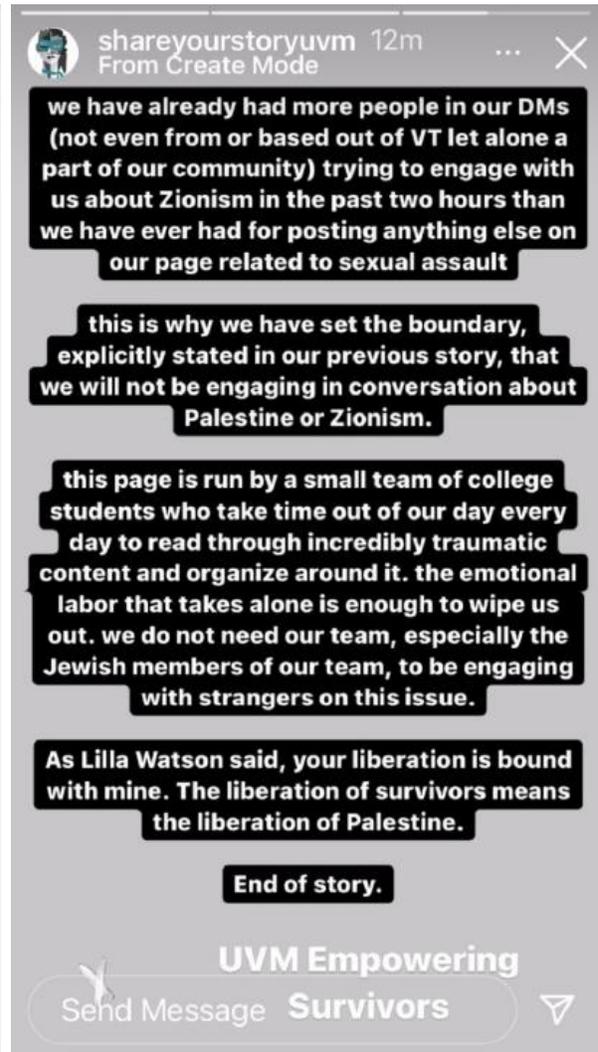
The UVM Hillel Student Board believes survivors and demands justice. We unequivocally stand against all forms of sexual assault or violence. If you or someone you know needs support, reach out to us, someone you trust, or refer back to our Mental Health Resources post for some resources. We love you and stand with you.

21w

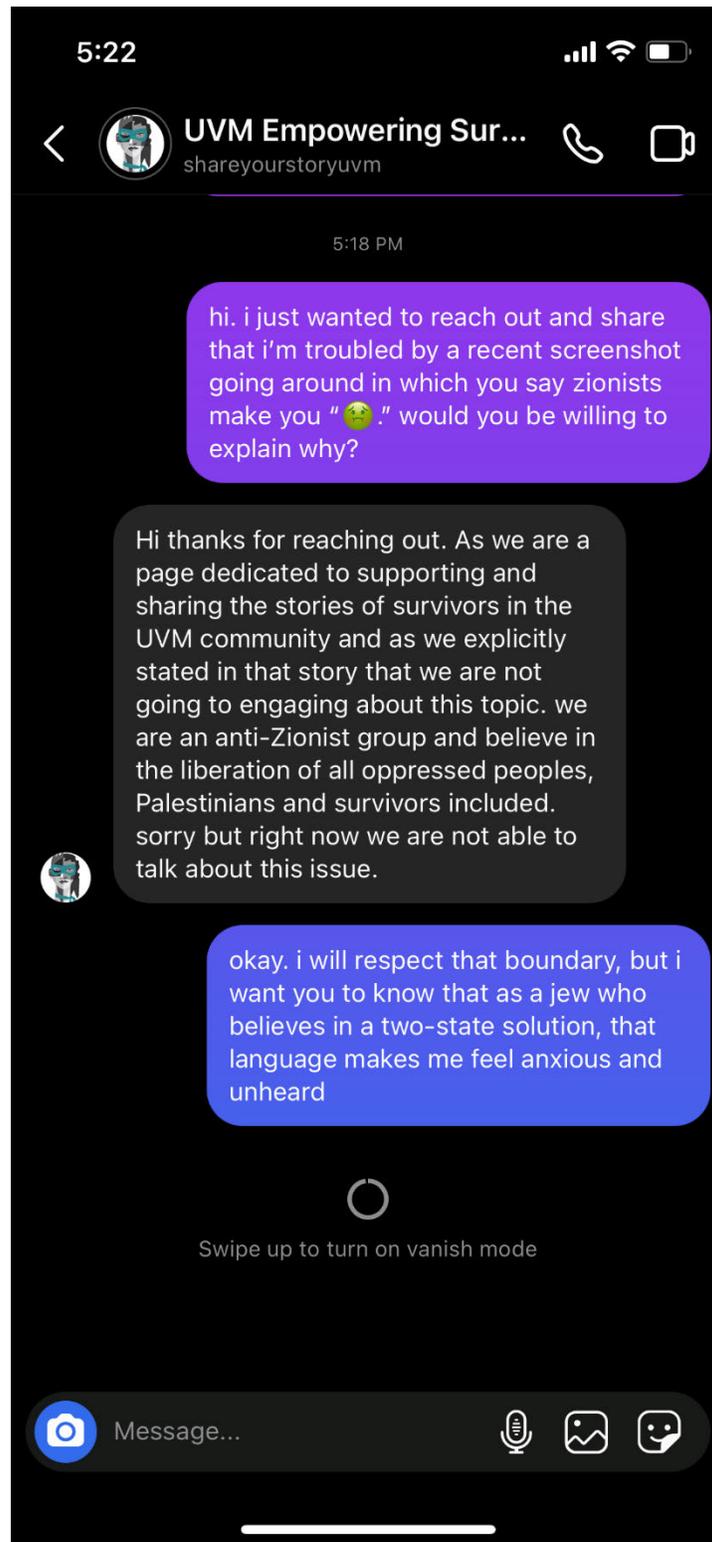
121 likes
MAY 3

Add a comment... Post

UVM Empowering Survivors Instagram (@shareyourstoryuvm) Story Tiles 2-3
<https://www.instagram.com/stories/highlights/17881527287207535/?hl=en>



Student Private Message on Instagram with @shareyourstoryvm



UVM Hillel Instagram (@uvmhillel)
<https://www.instagram.com/p/COyp0fXN3ab/>

instagram.com/p/COyp0fXN3ab/

 uvmhillel • Follow

 uvmhillel We are aware of the recent vulgar antisemitism that Jewish students are experiencing online from student accounts at UVM regarding current events.

We have reached out to UVM with our deep concern.

Jewish students have every right to be Jewish in their own way and not attacked and have their lived experience minimized for their religious beliefs, personal practice, or connection to Israel.

DM us and we will help amplify your voice, you aren't alone.

We highly encourage you to fill out a Bias Response Form (anonymously or otherwise) so UVM can be aware of your experience and respond accordingly. Link in bio.

146 likes
MAY 12

 Add a comment... Post

Update re: Palestine 1/5

On 5/13/21 UVM Hillel released a statement in which they called UVM Empowering Survivors story posts about Palestine "vulgar and damaging social media posts yesterday from a student-run social media account". They say they have met with students and the Bias Response Team to discuss harm that was caused and the feelings of students in the Jewish and survivor community.

They have not reached out to us about these story posts or about their events in response to them.

UVM Hillel says that "No student on our campus should feel unsafe in their identity, unsafe in their homes, and unsafe going to an affinity space on campus. I do not want any future students to experience what our graduating seniors and current students have this week".

We agree. That's why we fight for survivors. And that's why we fight for Palestine.

Update re: Palestine 2/5

There is no such thing as a neutral space or a space without politics. We never set out to create a safe, supportive place for everyone of all identities because we understand that that is not possible. We strive to hold ourselves accountable and create as inclusive a space as possible every day. That space is never going to be for everyone, it is not even going to be for everyone on our team (shoutout our BIPOC team members)!

We are here for survivors of sexual abuse. Done and done. If you have experienced sexual trauma we want to do everything we can to support you in your processing and healing journey, that is why we run this account in the first place.

What we cannot do is stay silent in the face of injustice.

Update re: Palestine 3/5

We are deeply sorry that there are survivors in our community who identify as Jewish and believe our stances and opinions to be harmful and anti-Semitic. We understand (more than most, as half our team members are Jewish) the power and violence that anti-Semitism has. Many of us have been living with it every day of our lives. We will always stand with our Jewish community in preserving the resilience, beauty and culture of Judaism and Jewish life.

What we cannot stand with is Israel and Zionists.

As survivors and allies of survivors of Jewish and non-Jewish descent who hold a multitude of marginalized identities and life experiences, we cannot in good conscience not take a stance in support of the Palestinian people and a free Palestine.

Update re: Palestine 4/5

UVM Hillel does not and never has stood on the side of the oppressed.

Despite student uproar in 2019 and 2020, UVM Hillel has taken money from the Maccabee Task Force, a right wing "philanthropic" organization that says it is combatting anti-Semitism on college campuses but is actually fighting against the Boycott, Divestment and Sanctions (BDS) movement which promotes using legitimate personal and government tools to pressure Israel. (search the Cynic article for more)

Some more food for thought, nearly 18% of UVM identifies as Jewish compared to 2.6% of people identifying as Jewish nationally. For reference, 13% of UVM identifies as BIPOC compared to 40% nationally.

This IS NOT to say that Jewish students do not hold an oppressed identity and do not deserve an affinity space. They absolutely do.

Update re: Palestine 5/5

This is to say that if we are going to critically examine global events through the lenses of capitalism, imperialism, settler-colonialism and white supremacy, we also have to examine ourselves, our institutions and our communities.

We cannot in good conscience hold UVM accountable for their treatment of survivors and not also hold our peers accountable for their pro-Israel or Zionist stances.

According to the UN, and this is from 2005 since which violence (particularly now) has increased dramatically, in Palestine the two leading reasons for gender-based violence are patriarchal norms and values AND occupation by Israel.

Jewish folks have suffered and are suffering.
Survivors have suffered and are suffering.
Palestinians have suffered and are suffering.
We can hold all of these at once and still be critical of the systems these identities that we carry can uphold.

ATTACHMENT B

Photos of the recent vandalism of the UVM Hillel Building.

