

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

The Louis D. Brandeis Center for Human
Rights Under Law and Jewish Americans
for Fairness in Education

Plaintiffs,

v.

President and Fellows of Harvard College,

Defendant.

COMPLAINT

JURY TRIAL DEMANDED

Plaintiffs The Louis D. Brandeis Center, Inc. (“Brandeis Center”) and Jewish Americans for Fairness in Education (“JAFE”) (collectively, “Plaintiffs”) for their complaint against the President and Fellows of Harvard College (“Defendant”), allege as follows:

INTRODUCTION

1. Harvard University promises all of its students a safe and non-discriminatory learning environment. Harvard claims that “[b]ullying, hostile and abusive behavior . . . are prohibited at Harvard,” and that it will “take appropriate action to prevent and respond to behavior that violates [its Non-Discrimination] Policy.” Harvard’s Non-Discrimination Policy provides that discrimination based on race, color, national origin, ancestry, or religion “is unlawful and is prohibited by this Policy.”

2. But as to Harvard’s Jewish and Israeli students, these promises are empty. In recent years, and especially in the last few months, Jewish and Israeli

students have been subjected to cruel antisemitic bullying, harassment, and discrimination. And when Harvard is presented with incontrovertible evidence of antisemitic conduct, it ignores and tolerates it. Harvard's permissive posture towards antisemitism is the opposite of its aggressive enforcement of the same anti-bullying and anti-discrimination policies to protect other minorities. As Plaintiffs and their members have experienced, Harvard has been deliberately indifferent to the pervasive antisemitism on campus, creating an unbearable educational environment. Plaintiffs and other Jewish and Israeli students feel isolated, unwelcome, and unable to enjoy the educational rights and benefits to which they are legally entitled.

3. Member #1, Member #2, and Member #3 (the "HKS Members") were intentionally discriminated against and tormented throughout a course that they took at Harvard Kennedy School ("HKS") in Spring 2023. After they proposed a project about their Israeli and Jewish identity, classmates objected, complaining that the idea of a "Jewish democracy" was "offensive." The professor and teaching fellows agreed. The professor compared the existence of a "Jewish state" to "white supremacy," and threatened HKS Members with "consequences." When the students persisted, the professor retaliated by forcing the HKS Members to sit through their classmates' anti-Israeli diatribes, and refused to let them respond. The professor also encouraged the teaching fellows to conduct a class exercise on Palestinian solidarity, and the classmates taunted the HKS Members by organizing a class picture, in which they and teaching fellows wore "keffiyehs" as a symbol of Palestinian support and

opposition to the HKS Members' identities. The professor appeared in the picture as well. Administrators then circulated that photo to other HKS students.

4. The HKS Members objected to the discrimination, causing Harvard to commission an outside investigation (the "Investigative Report"¹). The Investigative Report concluded that HKS created "a hostile learning environment," denied HKS Members "a learning environment free from bias," and "denigrated" them "on the basis of their Israeli national origin and Jewish ethnicity and ancestry."² The Investigative Report also detailed the pain and suffering HKS Members experienced, including medical issues and a loss of education benefits.³

5. Harvard did not challenge the findings—to the contrary, it "accept[ed] as final the [Investigative Report's] findings of fact and conclusions regarding the violations of School policies," effectively agreeing it had discriminated against its Israeli and Jewish students and created a hostile learning environment. Yet Harvard failed to take prompt or effective remedial action in response, or any remedial action, as far as Plaintiffs are aware. Rather, the Dean of HKS obfuscated and delayed, claiming that the Investigative Report raised "complex issues of pedagogy" that required further inquiry—even though the Investigative Report had specifically found "no pedagogical support" for the in-class conduct. Months later, the Dean told the HKS Members that any disciplinary action would remain strictly "confidential"

¹ Attached hereto as **Exhibit A**.

² **Exhibit A** at 21-24.

³ *Id.* at 16-18.

under school rules. By insisting on confidentiality and doing nothing more to take visible action, Harvard failed to acknowledge the hostile and discriminatory environment it had created or communicate to students that such discrimination has no place at Harvard.

6. Then, on October 7, 2023, the world became a much darker and lonelier place for Israelis and Jews. Hamas terrorists from Gaza invaded Israel and perpetrated a gruesome massacre. They murdered and tortured 1,200 innocent people of all ages and all walks of life; they raped and mutilated women; and they kidnapped approximately 200 innocent civilians, including children and babies.

7. Harvard should have been a place for Jewish and Israeli students to find solace. But it was the opposite, in no small part because Defendant allowed antisemitism and anti-Israeli sentiment to fester without adequate response. On a daily basis since October 7, 2023, Harvard students and faculty have called for violence against Jews and for the destruction of Israel, and celebrated Hamas's terrorism. Harvard's student message board is filled with vile antisemitic slurs and threats—including calls for Jews to “cook” and the Harvard Hillel to “burn[] in hell.” Student protestors have occupied and vandalized buildings, interrupted classes and exams, and made the campus deeply uncomfortable for their Jewish and Israeli classmates, including members of the Brandeis Center and JAFE. Professors, too, have explicitly supported anti-Jewish and anti-Israel terrorism, and spread antisemitic propaganda in their classes.

8. A few days after the massacre, the administration offered mealy-mouthed statements about “the war” and “violence” generally, but failed to make any clear statement that antisemitism would not be tolerated.⁴ And it refused to condemn a letter signed by more than thirty student groups that blamed Israel for the terrorist attack—a classic antisemitic conspiracy-theory, as recognized by the U.S.-adopted definition of antisemitism. Further, as students were chanting “From the River to the Sea!” and “Globalize the Intifada!”—that is, to destroy Israel and bring violence to Jews globally—the school’s first post-October 7 action was to form a task force to protect the individuals spewing that vile hatred. A few weeks later, then-University President Claudine Gay appeared before Congress and testified that calling for the mass murder of Jews on campus does not on its own violate Harvard’s policies. It “depends on the context,” she said.

9. Through its public actions and failures to act, Harvard has made its position clear: Jews are fair game. Students and faculty can harass and discriminate against Jews, and they can do so openly and with impunity. Harvard will go out of its way to protect antisemitic protestors and conspiracy-theorists.

10. Antisemitism on Harvard’s campus has continued to surge, to the point of becoming physical. On October 18, 2023, another member of JAFE and the Brandeis Center, Member #4, an Israeli Jew and a student at the Harvard Business School (“HBS”), was walking through campus when he encountered an outdoor anti-

⁴ *War in the Middle East, A Statement from Harvard University Leadership*, Harvard University (Oct. 9, 2023), <https://www.harvard.edu/president/news-gay/2023/war-in-the-middle-east/#:~:text=We%20write%20to%20you%20today,home%20for%20many%20at%20Harvard.>

Israel protest and decided to video the event, as others were doing. When protestors saw him and identified him as Jewish and/or Israeli, they accosted him. A mob surrounded him, engulfed him with keffiyehs, and chanted “Shame! Shame! Shame!” in his face. The assailants grabbed him, and one hit him in the neck with his forearm, before forcing Member #4 out of Harvard’s quad.

11. The video of the assault is shocking.⁵ But more remarkable perhaps is that Harvard has not taken any action to date to redress both the physical assault and the clear violations of its Anti-Bullying and Anti-Discrimination Policies. Instead, it cited an ongoing criminal investigation into Member #4’s assailants and claimed that it is “standard practice” to await the criminal process—yet another contrived excuse. There is no such policy or practice. Member #4’s assault was caught on tape, and the offenders have been identified. Harvard can make its own assessment, based on its own policies, and it can act accordingly—as it would have already done if Member #4 had been a member of any other protected class.

12. Since experiencing these incidents of harassment and discrimination—all clearly in violation of Harvard’s policies—the Brandeis Center and its members have sent letters and filed complaints, doing everything they can to get Harvard to act. But Harvard has brushed them aside. To date, Harvard has announced no suspensions or expulsions of Member #4’s assailants for their actions on October 18, 2023. And, in November, Harvard sent another boilerplate email to the HKS Members, giving them the same excuse that personnel actions are “confidential.”

⁵ Attached hereto as **Exhibit B**.

Unsurprisingly, Harvard has not announced the incident or publicly apologized for discriminating against HKS Members, it has not fired or suspended the professor or disciplined the teaching fellows, and it has not even provided training to prevent antisemitism or anti-Israel bias in the future.

13. By failing to effectively discipline and deter these incidents, the school has allowed the problem to get worse. Indeed, the problem has become so severe that the U.S. Department of Education launched an investigation into Harvard,⁶ and the U.S. House Committee on Education and the Workforce sent a letter on January 9, 2024 expressing “concerns regarding the inadequacy of Harvard’s response to the antisemitism on its campus,” both generally and specifically with reference to the hate-filled incidents the Brandeis Center’s and JAFE’s members have endured.⁷ On February 16, 2024, the House Committee issued subpoenas to Harvard officials compelling production of documents.⁸

14. As a recipient of federal funding, Harvard is covered by Title VI of the Civil Rights Act of 1964. It has a legal duty to provide a safe learning environment for *all* of its students. It also has a contractual obligation to enforce its policies to protect tuition-paying students from the very type of harassment, bullying, and discrimination that all the Brandeis Center’s and JAFE’s members have endured.

⁶ Olafimihan Oshin, *Department of Education to investigate Harvard in possible discrimination probe*, The Hill (Nov. 29, 2023), <https://thehill.com/homenews/education/4334479-department-education-investigates-harvard/>.

⁷ Letter from Virginia Foxx, Chairwoman Comm. on Educ. & the Workforce to Penny Pritzker Senior Fellow, Harvard Corp. and Dr. Alan Garber, Interim Pres., Harvard Univ. (Jan. 9, 2024), https://edworkforce.house.gov/uploadedfiles/1.9.24_foxx_letter_to_pritzker_and_garber.pdf.

⁸ Press Release, Comm. on Educ. & the Workforce, Foxx Subpoenas Harvard (Feb. 16, 2024), <https://edworkforce.house.gov/news/documentsingle.aspx?DocumentID=410149>.

Harvard is violating federal law and breaching its contractual promises. This lawsuit seeks to hold Harvard accountable.

JURISDICTION AND VENUE

15. This Court has subject matter jurisdiction over Counts I, II, and III of this action under 28 U.S.C. § 1331 because these claims arise under federal law.

16. This Court has personal jurisdiction over Defendant because the Defendant is located in and conducts business in Massachusetts.

17. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1) because Harvard is located in the District of Massachusetts, and under 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claim occurred in the District.

PARTIES

A. Plaintiffs

18. Plaintiff Brandeis Center is a nonprofit, non-partisan corporation established to advance the civil and human rights of the Jewish people and promote justice for all. The Brandeis Center engages in research, education, and legal advocacy to combat antisemitism on college and university campuses and in K-12, in the workplace, and elsewhere. It empowers students by training them to understand their legal rights and educates administrators and employers on best practices to combat racism and antisemitism.

19. The Brandeis Center has expended considerable resources in responding to unlawful action by the Defendant, including counseling aggrieved students, raising public awareness of the Defendant's conduct in an effort to seek compliance by the

Defendant, and filing complaints with the Defendant regarding the discrimination and hostile educational environment that the Brandeis Center's members have experienced. The Brandeis Center attorneys and staff have been diverted from other work while dealing with these matters.

20. Plaintiff JAFE is a national membership organization that is housed within and operated by the Brandeis Center. JAFE's mission, like that of the Brandeis Center, is to advance the civil and human rights of the Jewish people and promote justice for all and, in particular, to eliminate antisemitism and discrimination in education and ensure fairness in education for Jewish, Israeli, and other Americans, through lawful means, including litigation. Because of its affiliation with the Brandeis Center, members of JAFE also become members of the Brandeis Center. The Brandeis Center and JAFE's members consist of Jewish American college students, graduate and professional students, parents, alumni, faculty, and other individuals who have personally been aggrieved by, or have by association been impacted by, antisemitism and discrimination in higher education and K-12. The Brandeis Center and JAFE have members throughout the country, including Jewish, American, and Israeli students and professors affiliated with higher education and K-12 institutions across the United States. The Brandeis Center and JAFE's membership includes Harvard undergraduate and graduate students.

21. Member #1 is an Israeli Jewish man and a graduate student of HKS. Member #1 is a resident of Israel, and a dual citizen of the United States and Israel. He is also a member of the Brandeis Center and JAFE.

22. Member #2 is an Israeli Jewish man and a graduate student of HKS. Member #2 is a resident and citizen of Israel. He is also a member of the Brandeis Center.

23. Member #3 is an Israeli Jewish man and a graduate student of HKS. Member #3 is a resident and citizen of Israel. He is also a member of the Brandeis Center.

24. Member #4 is an Israeli-American Jewish man and a graduate student at Harvard Business School (“HBS”). Member #4 is a resident of the Allston neighborhood in Boston, Massachusetts, and is a dual citizen of the United States and Israel. He is also a member of the Brandeis Center and JAFE.

25. Member #5 is a Jewish woman and a visiting doctoral student at the Harvard Medical School and visiting fellow at the Harvard Kenneth C. Griffin Graduate School of Arts and Sciences. She is a resident of Cambridge, Massachusetts, and a citizen of the United States. She is also a member of the Brandeis Center and JAFE.

B. Defendant and Its Schools

26. Defendant The President and Fellows of Harvard College is a governing board of Harvard University and has oversight responsibility and fiduciary duties for all of the University’s affairs.

27. Harvard University is a private university located in Cambridge, Massachusetts. For fiscal year 2023, it received a total of \$676 million in federal funding.

28. HKS is a private school located in Cambridge, Massachusetts, operated by the University. The cost of tuition for a student at HKS for the 2023-2024 academic year was \$57,660 per year, and the total cost of attendance was estimated to be \$91,594.

29. HBS is a private school located in Cambridge, Massachusetts, operated by the University. The cost of tuition for a student at HBS for the 2023-2024 academic year is \$74,910 per year, and the total cost of attendance was estimated to be \$115,638.

30. Harvard Law School (“HLS”) is a private school located in Cambridge, Massachusetts, operated by the University.

31. Harvard Divinity School (“HDS”) is a private university located in Cambridge, Massachusetts, operated by the University.

FACTUAL ALLEGATIONS

A. Antisemitism Has Become Pervasive at Harvard in Recent Years

32. The International Holocaust Remembrance Alliance (“IHRA”) defines antisemitism as “a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.”⁹ Incorporated into the definition are the following examples:

⁹ *Working definition of antisemitism*, Int’l Holocaust Remembrance All., <https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-antisemitism> (last visited Apr. 29, 2024).

- Calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion.
- Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as collective — such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions.
- Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, or even for acts committed by non-Jews.
- Denying the fact, scope, mechanisms (e.g. gas chambers) or intentionality of the genocide of the Jewish people at the hands of National Socialist Germany and its supporters and accomplices during World War II (the Holocaust).
- Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust.
- Accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations.
- Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavor.
- Applying double standards by requiring of it a behavior not expected or demanded of any other democratic nation.
- Using the symbols and images associated with classic antisemitism (e.g., claims of Jews killing Jesus or blood libel) to characterize Israel or Israelis.
- Drawing comparisons of contemporary Israeli policy to that of the Nazis.
- Holding Jews collectively responsible for actions of the state of Israel.

33. The United States, along with 42 other countries, has adopted the IHRA working definition.¹⁰ Similarly, 33 states have adopted the IHRA working definition of antisemitism, through either executive orders, resolutions, or laws.¹¹ On May 1,

¹⁰ *Defining Antisemitism*, U.S. Dep't of State, <https://www.state.gov/defining-antisemitism/>.

¹¹ *States Adopt IHRA Definition of Anti-Semitism (2024)*, Jewish Virtual Library, <https://www.jewishvirtuallibrary.org/states-adopt-ihra-definition-of-anti-semitism>.

2024, the U.S. House of Representatives overwhelmingly passed a bill that would require the Department of Education to use the International Holocaust Remembrance Alliance (IHRA)'s working definition of antisemitism and its contemporary examples when enforcing anti-discrimination laws.¹²

34. Pervasive and repeated incidents of antisemitism on Harvard's campus have been well-documented. The problem is not a secret to Harvard and has not been for many years. A November 2022 report by the AMCHA Initiative, a nonprofit that documents antisemitism on college campuses, found that Harvard had the highest rate of threats based on Jewish identity of the 109 campuses it surveyed.¹³

35. In March 2023, a Harvard student presented a senior thesis entitled "The Death of Discourse: Antisemitism at Harvard College," which details the severe and pervasive anti-Jewish bias on campus—even before October 7. As part of her research, the student found that a staggering 62.5% of Jewish students interviewed between October 2022 and February 2023 had reported experiencing or witnessing instances of antisemitism on Harvard's campus. In addition, 83.33% of students said that they experienced anti-Zionism, and 68.75% had self-censored in academic or social settings because of "their Judaism or connections to Israel."¹⁴

¹² Antisemitism Awareness Act of 2023, H.R. 6090, 118th Cong. (2023); *Roll Call 172 – Bill Number: H.R. 6090*, Office of the Clerk, U.S. House of Representatives (May 1, 2024), <https://clerk.house.gov/Votes/2024172>.

¹³ *A Looming Crisis for the American Jewish Community: Campus Antisemitism & the Assault on Jewish Identity*, AMCHA Initiative (2022), <https://amchainitiative.org/wp-content/uploads/2022/11/Assault-on-Jewish-Identity-Report.pdf>.

¹⁴ Sabrina Paris Goldfischer, *The Death of Discourse: Antisemitism at Harvard College* (Mar. 2023) (Bachelor of Arts thesis, Harvard College).

36. Harvard was and is well aware of these studies and surveys and, therefore, about its hostile educational environment. And the Brandeis Center and JAFE members—who are among that group of students who have experienced and suffered from this antisemitic discrimination—have reported multiple incidents through the appropriate channels. Nonetheless, Harvard has remained deliberately indifferent to their complaints.

B. HKS Members Endure Antisemitic Bullying and Discrimination in Class

1. Professors, Teaching Assistants, and Students Object to HKS Members’ Israeli Jewish Identity

37. In the spring 2023 semester, HKS offered a course for graduate students called “Organizing: People, Power, Change,” taught by Professor Marshall Ganz. The course promised to teach students about how to work in teams, connect with potential constituents, and ultimately organize for a worthwhile cause.

38. The course was a two-week workshop, with in-person classes on the weekends. Each weekend, students gathered for lectures, small group discussions, and coaching. Students were asked to form small teams and then propose a project based on their values, and they were assigned a teaching fellow as an advisor. Each team drafted a statement of purpose and shared it with the class.

39. HKS Members enrolled and formed a team together. For their class project, they chose a cause that was meaningful to all of them based on their shared identity as Israeli Jews: “organizing a growing majority of Israelis, that act in harmony, building on a shared ethos of Israel as a liberal-Jewish democracy, based

on our mixed heritage and identities, being a cultural, economical, and security lighthouse.”¹⁵

40. During the first weekend of the course (February 24–26, 2023), two teaching fellows introduced themselves to the entire class, and immediately expressed their anti-Israel sentiment, without apparent reason or provocation. HKS Members then introduced their topic about Jewish democracy in Israel to the class.

41. On February 27, 2023, Professor Ganz called HKS Members into his office for a meeting. He told them that some of the other students and teaching fellows had objected to their proposal and he wanted to foster a learning environment that would not be “offensive” to Muslim students. The HKS Members suggested that they meet with these students and teaching fellows to have a productive dialogue outside of class. But Professor Ganz refused to identify the students or teaching fellows, or to tell the HKS Members what their objections were.

42. Instead, Professor Ganz pressured HKS Members to abandon the project—a project that was meaningful to them, as it was about their Israeli Jewish identity. Professor Ganz urged HKS Members to eliminate any reference to Israel as a “liberal-Jewish-democracy,” even though that was the key point and purpose of the project. And, of course, Israel is, in fact, a Jewish democracy.

43. Hoping to appease Professor Ganz and the HKS teaching fellows, HKS Members proposed modifying their statement of purpose to use the phrase “liberal democracy in the Jewish homeland” instead of “liberal Jewish democracy.”

¹⁵ See **Exhibit A** at 9, 79.

44. But Professor Ganz rejected their suggestion. He told them that it was not the particular phraseology they had chosen, but the very word “Jewish” being associated with “democracy” that was so offensive. Professor Ganz said that using “Jewish” and “democracy” together “creates an unsafe space” for classmates.¹⁶ He compared their use of the words “Jewish State” to a student advocating for America to become a country of “white supremacy.”¹⁷

45. In response, Professor Ganz stated that “Jewish democracy” is problematic because Judaism is an ethno-religion, unlike most other religions, and therefore, according to Professor Ganz, includes only members of a specific ethnic group in its democracy.¹⁸ Because Jews share an ethnicity, it would be offensive, in his view, to associate the Jewish State with the concept of democracy, a positive and inclusive form of government.

46. Professor Ganz baldly admitted that this was the first and only time in his long career that he ever forbade students from presenting on the topic of their choice—and he acknowledged that he had previously allowed other students in the course to present on politically charged issues, including ones that others had found offensive.¹⁹

47. Three days after their meeting, on March 2, 2023, Professor Ganz emailed HKS Members to tell them that their statement of purpose was “not

¹⁶ *Id.* at 229.

¹⁷ *Id.*

¹⁸ *Id.* at 10, 243.

¹⁹ *Id.* at 12, 78.

acceptable going forward.”²⁰ Professor Ganz explained that the term “liberal-Jewish-democracy” is “highly controversial” and that it was “disrupting the learning opportunity” for the class.²¹ HKS Members requested further clarification. Professor Ganz told them they could not complete their work as proposed because “many people enrolled in the class [find] [the] term ‘Jewish democracy’ deeply offensive.”²²

48. HKS Members sent Professor Ganz another email that evening, explaining that the project was important to them and to their Israeli Jewish identities, and that they were excited to have the opportunity to present to the class.²³ They told the professor that his “course offer[ed] students a unique and valuable opportunity to develop organizing strategies based on their stories of self, of us and of now,” and advised him that they only wanted to have the same opportunity as other students.²⁴

49. Professor Ganz responded in an email an hour later, expressing his disappointment that HKS Members refused to accommodate other members of the class by changing their shared purpose and censoring their identities.²⁵ “It’s unfortunate that you are choosing to ignore the provocative nature of your claims,”

²⁰ *Id.* at 11, 70.

²¹ *Id.*

²² *Id.* at 11, 77.

²³ *Id.* at 78.

²⁴ *Id.*

²⁵ *Id.* at 13, 80.

he stated, and he closed his email by threatening HKS Members that they would bear “responsibility for the consequences.”²⁶

50. When HKS Members asked what Professor Ganz meant by “consequences,” he responded: “With respect to consequences, I can only speak to fulfillment of course requirements. You may also want to consider how responsive others may be to your approach.”²⁷

51. On March 3, 2023, HKS Members met with Mr. Dan Grandone, one of their teaching fellows. During their meeting, Mr. Grandone also pressured HKS Members to change their project statement, again by removing both the terms “liberal-Jewish democracy” and “security lighthouse” in reference to Israel. In Mr. Grandone’s view, those terms were too “problematic.”²⁸ HKS Members, however, refused to do so and stated that they would present it as planned. But Professor Ganz did not allow them to present their work to the entire class.

52. On the last day of class, March 5, 2023, it became clear what Professor Ganz meant by “consequences.” His conduct metastasized into a full scale taunting and humiliating of the HKS Members. Although there were no projects by any students in the class dealing with Palestinians, and HKS Members had been prevented from presenting their project to the entire class, two HKS teaching fellows—with Professor Ganz’s knowledge—used “Palestinian solidarity” as the topic

²⁶ *Id.*

²⁷ *Id.* at 13, 82.

²⁸ *Id.* at 13.

for a “fishbowl” role-playing exercise to teach the class about recruiting people to a cause.

53. Specifically, the HKS teaching fellows arranged for two of them to teach a lesson on how to recruit support for Palestinian solidarity.

54. The presentation subjected the HKS Members to a litany of aggressively anti-Israeli diatribes. Right after the teaching fellows’ lecture, one student chimed in with anti-Israeli remarks.

55. Later in the day, one person from each small group was selected by the teaching team to present their group’s final work. The student who made the anti-Israeli remarks was among the students chosen. Before discussing her team’s work, the student told more antisemitic and anti-Israeli stories.

56. The only option for the HKS Members was to subject themselves to the abuse or to leave. They opted to politely remain and subject themselves to the harassment, but, before class ended, HKS Members approached Professor Ganz and requested an opportunity to respond. They sought to defend these attacks on their identity, which Professor Ganz had purposefully invited, and to provide a different perspective, so the class could have a better, more comprehensive understanding of the events in the Middle East.

57. Professor Ganz responded by losing his temper. He rejected their request to speak. He told HKS Members that they “had caused enough problems already” and that they would have to go elsewhere to make their points.²⁹

²⁹ *Id.* at 25.

58. Later, at the end of the final class session of the course, and as yet another psychological assault on the HKS Members, the HKS teaching fellows organized a class photo wherein students posed wearing keffiyehs to demonstrate Palestinian solidarity. This communicated to HKS Members that they were not welcome and they thus did not participate in the photo; but Professor Ganz and the teaching fellows were all present, a symbol of their discrimination against the HKS Members throughout the course.

59. The next week, the Program Director of the Practicing Democracy Project at HKS, Emily Lin, emailed a newsletter on behalf of Professor Ganz that featured the class photo intended to show Palestinian solidarity. Upon information and belief, Ms. Lin sent this newsletter and photo to anyone who had ever been enrolled in one of Professor Ganz's classes.

60. In addition to blocking HKS Members' project, inviting anti-Israel speech that he knew would be hurtful, and then preventing HKS Members from responding, Professor Ganz further retaliated by giving the HKS Members lower grades than they deserved. He did so solely as a "consequence" of their refusal to change their topic, as he had insisted, and because their topic dealt with their Jewish Israeli identity.

61. Academic performance in the course was measured as follows: The teaching fellows read and provided preliminary grades, according to a rubric, on each of their assigned students' final paper and overall performance in the course.

Professor Ganz then reviewed the papers, the teaching fellows' comments, and each grade the teaching fellows proposed.

62. HKS Members each completed their final reflection papers for the course and received comments from Mr. Grandone, as he was their assigned teaching fellow. One of the HKS Members also received comments from another teaching fellow. The teaching fellow twice referred to this HKS Member's participation in the Israel Defense Forces, even though the HKS Member had not discussed his role in the Israel Defense Forces during the course.

63. For one of the HKS Members, the grades received were lower than grades received in other courses. And, upon information and belief, the grades overall were lower than those given to the other students in the course.

64. HKS Members' experience throughout the course, and their final grades, made clear to HKS Members they would not be welcome in the next session of the course—which they had planned to join. One of the three had already registered, but, because of the discriminatory environment, he dropped the class. And the other two HKS Members decided not to register out of concern that they would be subjected to further abuse in the next session.

2. An Outside Investigation Concludes that Harvard Subjected HKS Members to a Hostile Educational Environment

65. On March 29, 2023, the Brandeis Center sent a letter³⁰ on behalf of HKS Members to Harvard University President Lawrence Bacow and HKS Dean Douglas

³⁰ Attached hereto as **Exhibit C**.

Elmendorf. The letter described the discriminatory treatment that HKS Members were subjected to and the hostile environment at HKS.

66. After receiving this letter, HKS commissioned an external investigator to evaluate HKS Members' claims. Two months later, the investigator issued the Investigative Report. Harvard has since "accept[ed] as final the [Report's] findings of fact and conclusions regarding the violations of School policies."³¹

67. Specifically, the Investigative Report concluded that HKS subjected HKS Members to a hostile environment, as defined by the Department of Education's Office for Civil Rights ("OCR") with respect to Title VI of the Civil Rights Act of 1964. By "treat[ing] [HKS Members] differently on the basis of their Israeli national origin and Jewish ethnicity and ancestry . . . without a legitimate, nondiscriminatory reason for doing so," Professor Ganz "interfered with and limited the [HKS Members'] ability to participate in and benefit from HKS's educational program."³²

68. In addition, the Investigative Report found that Professor Ganz had run "afoul" of HKS's own "principles of free speech and free exchange of ideas" when he directed the HKS Members "to change their statement of purpose and topic description" because other students and teaching fellows "objected to the premise of Israel as a Jewish democracy."³³ Professor Ganz "denigrated [HKS Members'] identities as Israelis and Jews."³⁴

³¹ Attached hereto as **Exhibit D (redacted)**.

³² **Exhibit A** at 22.

³³ *Id.* at 13, 19, 70.

³⁴ *Id.* at 23.

69. In so concluding, the Investigative Report explained that “Professor Ganz’s treatment of the Students was inconsistent with guidance provided by OCR and the White House, namely that students should not be treated differently or harshly based on their views on Israel,” and that such treatment constitutes antisemitic and anti-Israeli discrimination even if “the offender does not intend harm.”³⁵

70. For example, the Investigative Report noted, Professor Ganz “compared the [HKS] Students’ purpose to Christian white supremacy in an effort to demonstrate that their claim to ‘Jewish democracy’ was ‘contradictory.’”³⁶ He said that “for some, *Jewish democracy* sounds like what [a] *white racist* would sound like to others.”³⁷ And he told the HKS Members their proposed topic was off limits because of “the identity of others who do not share [HKS Members’] unique ethno-religious identity.”³⁸

71. The Investigative Report also found that Arab and Muslim students were “[accorded] preferential treatment,” as they were “viewed as a group oppressed by Israel.”³⁹ On that basis, HKS Members were silenced in favor of other groups.

72. The Investigative Report concluded that “[t]he cumulative effect of these acts indeed created a hostile learning environment for the [HKS] Students based on

³⁵ *Id.* at 22.

³⁶ *Id.* at 23.

³⁷ *Id.* (emphasis in original).

³⁸ *Id.* at 13, 80.

³⁹ *Id.* at 23.

their Israeli nationality and Jewish ethnicity and ancestry, and effectively denied them the opportunities of a safe learning environment in the Course.”⁴⁰ And, critically, it found that the events were inconsistent with “[HKS’s principles and] expectations that students enjoy a learning environment free from bias.”⁴¹ Specifically, HKS had “violated the HKS Statement of Rights and Responsibilities and the University-Wide Statement on Rights and Responsibilities.”⁴²

73. The Investigative Report also detailed the “impact” on the HKS Members, described above, including the stress, discomfort, feeling of being unwanted, and suffering from medical issues.⁴³

74. Accordingly, the Investigative Report concluded that HKS had directly discriminated against HKS Members based on their Israeli and Jewish identity, and it put HKS on clear notice of the hostile educational environment HKS Members were experiencing.

3. Harvard Strings HKS Members Along Without Meaningful Action, Despite Adopting Most of the Findings of the Investigative Report

75. On June 15, 2023, one day after receiving the Investigative Report, HKS Dean Douglas Elmendorf sent a letter⁴⁴ to HKS Members. In the letter, Dean Elmendorf wrote that he had accepted a majority of the Investigative Report’s

⁴⁰ *Id.* at 24.

⁴¹ *Id.* at 23.

⁴² *Id.* at 26.

⁴³ *See id.* at 16-18.

⁴⁴ **Exhibit D.**

findings of fact and conclusions—thereby acknowledging that HKS violated school policies, wrongfully abridged HKS Members’ freedom of speech, and discriminated against them as Israelis and as Jews.

76. But, stunningly, HKS declined to take remedial action. Instead, citing “complex issues of pedagogy and the rights of students and faculty members to express their views,” Dean Elmendorf explained that he would wait to convene a “small group of faculty members at the School to advise [him].”⁴⁵ Dean Elmendorf expected that this process would take a few weeks, at which point he would decide what actions to take, if any.

77. On June 26, 2023, HKS Members responded to the Dean in an email⁴⁶ thanking him for accepting the findings of fact and reminding him that they only wanted to ensure that other Jewish and Israeli students and faculty would not experience the same discrimination and harassment. To that end, HKS Members proposed that the school openly discuss the relevant events and make clear that antisemitism and anti-Israel bias are no more acceptable than any other forms of bias.⁴⁷

78. For three months, and despite Dean Elmendorf’s promise to act in a few weeks, the school took no action whatsoever. It did not make any public statement, as HKS Members had requested; it made no attempt to correct the hostile educational

⁴⁵ *Id.* at 2.

⁴⁶ Attached hereto as **Exhibit E**.

⁴⁷ *Id.* at 2.

environment that existed for HKS Members; it did not punish any of the participants in the discrimination; it made no policy changes; it created no training programs.

79. On September 11, 2023, Dean Elmendorf finally replied to HKS Members in an email⁴⁸ and again admitted the misconduct and apologized for HKS's policy violation. The letter advised HKS Members that Harvard was taking "certain personnel actions" that could not be disclosed and "organizing sessions for all faculty members regarding difficult conversations in class among students with different *perspectives*."⁴⁹

80. But upon information and belief, neither Professor Ganz nor any of his teaching fellows suffered any personnel consequences. To the contrary, Defendant subsequently publicly touted Professor Ganz as a civil rights hero in the Harvard Gazette, without making any mention of his recent violation of HKS Members' civil rights.⁵⁰ This news came as a slap in the face to HKS Members, whose civil rights he had violated with impunity.

C. October 7 Sets Off Vicious Antisemitism on Campus, and Harvard Again Fails to Act

81. During the Fall 2023 semester at Harvard, the already-hostile environment on campus became even more intolerable for Jewish students.

⁴⁸ Attached hereto as **Exhibit F**.

⁴⁹ *Id.* at 1 (emphasis added).

⁵⁰ See Christina Pazzanese, 'What is compelling to do right now?', The Harvard Gazette (Sept. 26, 2023), <https://news.harvard.edu/gazette/story/2023/09/how-marshall-ganz-found-his-calling-as-activist-scholar-mentor/>; see also Rick Sobey, *After Harvard professor reportedly discriminated against Israeli students, school celebrates prof for civil rights work*, Bos. Herald (Oct. 30, 2023), <https://www.bostonherald.com/2023/10/30/after-harvard-professor-reportedly-discriminated-against-israeli-students-school-celebrates-prof-for-civil-rights-work/>.

82. On October 7, 2023, during the Jewish holiday of Simchat Torah, Hamas terrorists from Gaza perpetrated a historically gruesome attack against Israel and its citizens. They murdered, tortured, and mutilated hundreds of innocent men, women, children, and babies; they brutally raped and sexually assaulted women; and they kidnapped hundreds of innocent civilians, including young children and even a 9-month-old baby. By the end of this most infamous day, 1,200 Israelis were murdered, and over 200 were abducted. October 7 was the most fatal day in Jewish history since the Holocaust.

83. Many leaders across the country immediately and forcefully condemned the attack and expressed sympathy for the Jewish people. At a press conference days later, President Biden described the attack as follows:

Scores of innocents—from infants to elderly grandparents, Israelis and Americans—taken hostage. Children slaughtered. Babies slaughtered. Entire families massacred. Rape, beheadings, bodies burned alive. Hamas committed atrocities that recall the worst ravages of ISIS, unleashing pure unadulterated evil upon the world. There is no rationalizing it, no excusing it. Period. The brutality we saw would have cut deep anywhere in the world, but it cuts deeper here in Israel. October 7, which was a sacred to—a sacred Jewish holiday, became the deadliest day for the Jewish people since the Holocaust.⁵¹

84. Critically, President Biden explained the way in which the October 7 attack has so profoundly and painfully affected Jews around the world and how it has

⁵¹ President Joe Biden, Remarks on the October 7th Terrorist Attacks and the Resilience of the State of Israel and its People - |Tel Aviv, Israel (Oct. 18, 2023), <https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/10/18/remarks-by-president-biden-on-the-october-7th-terrorist-attacks-and-the-resilience-of-the-state-of-israel-and-its-people-tel-aviv-israel/>.

“brought to the surface painful memories and scars left by a millennia of antisemitism and the genocide of the Jewish people.”⁵²

85. Harvard apparently was unmoved. Since October 7, Harvard has allowed Jewish students to be bullied, intimidated and threatened, and subject to verbal and online harassment.⁵³ Harvard still has not taken any meaningful or reasonable steps to prevent these antisemitic incidents from happening or to make its campus a safe and comfortable place for Jewish students. To the contrary, it has signaled that antisemitism is acceptable and welcome on campus.

86. On October 8, 2023—only one day after the brutal terrorist attack against Israel and the Jewish people—the Harvard Undergraduate Palestine Solidarity Committee (“PSC”) authored a joint letter co-signed by 33 other Harvard student groups, purporting to “hold the Israeli regime entirely responsible for all unfolding violence,” and stating that the “apartheid regime” in Israel is “the only one to blame.”⁵⁴ The letter did not condemn Hamas or its violence against Israeli civilians. The statement was shared on social media and quickly spread around campus.

87. On October 9, 2023, Harvard leadership issued its first statement since the attack. The signatories expressed that they were heartbroken—not solely or

⁵² *Id.*

⁵³ See, e.g., Anemona Hartocollis et al., *Feeling Alone and Estranged, Many Jews at Harvard Wonder What’s Next*, N.Y. Times (Dec. 18, 2023), <https://www.nytimes.com/2023/12/16/us/jews-harvard-antisemitism-israel-war.html>.

⁵⁴ Daniel Trotta, *Pro-Palestinian letter from Harvard students provokes alumni outrage*, Reuters (Oct. 10, 2023), <https://www.reuters.com/world/us/pro-palestinian-letter-harvard-students-provokes-alumni-outrage-2023-10-10>.

specifically by the carnage of Jews and Israelis wrought by the Hamas attack but by unspecified “death and destruction” the attack had “unleashed” and the larger “war in Israel and Gaza now under way.”⁵⁵

88. Leadership also did not condemn the PSC letter for blaming Israel, nor did it offer any specific consolation for Jewish students—indeed, it did not mention Harvard’s Jewish students at all. Instead, it promised to “take steps as an academic community to deepen our knowledge of the unfolding events and their broader implications for the region and the world.”⁵⁶ The message was clear: Jewish and Israeli lives lack independent significance and ensuring the safety and well-being of Jewish and Israeli students does not rank amongst Harvard’s priorities.

89. On October 10, 2023, then-Harvard President Claudine Gay issued a short statement in which she condemned the terrorist atrocities perpetrated by Hamas. But she too declined to condemn the PSC letter and noted only that student groups do not speak for Harvard University or its leadership. President Gay also made no mention of antisemitism or protecting Jewish students on campus.

90. The statements by President Gay and Harvard leadership were woefully inadequate and signaled that antisemitism was tolerable and just another element of the Harvard experience. Students received the message that they would face no repercussions, even for the most vile, anti-Jewish or anti-Israel statements. Only one

⁵⁵War in the Middle East, *A Statement from Harvard University Leadership*, Harvard University (Oct. 9, 2023), <https://www.harvard.edu/president/news-gay/2023/war-in-the-middle-east/#:~:text=We%20write%20to%20you%20today,home%20for%20many%20at%20Harvard.>

⁵⁶ *Id.*

week after October 7, more than 1,000 demonstrators rallied in Harvard Yard in support of Gaza, condemning the University for a lack of support of Palestinian students and complicity in what they described as “genocide.”

91. Despite this outburst of antisemitic activities and protests on campus, the first post-October 7 initiative that Harvard took was to protect the very students that had blamed Israel for the Hamas massacre—in other words, students that signed onto a document that was antisemitic under the U.S.-accepted definition described above. On October 24, 2023, Harvard established a task force to “support students experiencing doxing, harassment, and online security issues following backlash against students allegedly affiliated with a statement that held Israel ‘entirely responsible’ for violence in the Israel-Hamas conflict.”⁵⁷ Harvard held itself out as a resource for helping perpetrators of antisemitism to erase their digital footprints.

92. The creation of this task force sent a strong message that the University was not just ignoring the antisemitic incidents and threats to Jewish students on campus, but that it was taking sides in the conflict by supporting and protecting only students who held Israel responsible for Hamas’s terrorism.

93. In addition to these incidents, the Brandeis Center’s and JAFE’s members have all been subjected to the vile antisemitic statements and conspiracy theories that their classmates have posted on “Sidechat,” an anonymous social

⁵⁷ Michelle N. Amponsah, *Harvard Creates Task Force for Doxxed Students Amid Backlash Over Israel Statement*, Harvard Crimson (Oct. 25, 2023), <https://www.thecrimson.com/article/2023/10/25/doxxing-task-force/>.

network that is accessible to those with Harvard emails. As a small sample of the many heinous statements that have been posted:

94. One student asked his classmates to “reflect on how much power the Jewish population has over the media.”

95. Another student stated that he or she “proudly accept[s] the label of terrorist” and that it is “very hard to gaf [i.e., “give a f---”] about the concertgoers”—referring to the over 350 innocent young men and women who were raped, mutilated, and slaughtered by Hamas terrorists at the Nova music festival on October 7.

96. Another student claimed that the “nova massacre”—again, referring to the same terrorist attack at the music festival—was “carried out by the [Israel Defense Forces].”

97. Another student referred to a Jewish student as “pro-genocide” and said that she “looks just as dumb as her nose is crooked.”

98. Another student posted a rhyme about “Harvard Hillel burning in hell,” and claimed that it is “funded by Epstein” (i.e., Jeffrey Epstein) and that it “support[s] genocide.”

99. Another student referred to “Zionists” as “[k]illers and rapists of children!”

100. Another student expressed that he or she “support[s] Hamas” and views “Oct 7 as a moment of decolonization.”

101. One student posted “LET EM COOK,” apparently referring to news reports that Israeli first responders found babies burned to death in ovens after October 7.

102. On February 18, 2024, several student groups and a faculty group posted an antisemitic cartoon on their social media accounts.⁵⁸ The cartoon resembles Nazi-era propaganda. It depicts a hand etched with a Star of David and a dollar sign holding a noose around the necks of what appear to be a black man and an Arab man:



103. On March 21, 2024, Harvard’s undergraduate house Lowell House was slated to host a discussion on “Islamophobia, Antisemitism, and Religious Literacy,”

⁵⁸ See Mike Damiano, *‘Despicable’*. Harvard student and faculty groups denounced over antisemitic cartoon, *Bos. Globe* (Feb. 20, 2024), <https://www.bostonglobe.com/2024/02/20/metro/harvard-antisemitic-cartoon/>.

featuring moderator Chance Bonar, a member of Harvard Faculty and Staff for Justice in Palestine, one of the several groups that posted the antisemitic imagery above in previous paragraph.⁵⁹

104. Meanwhile, one of the scheduled panelists, Mafaz Al-Suwaidan, is currently a PhD student at Harvard. For years, she has expressed public support for Palestinian terrorists and for the elimination of the state of Israel. She is the daughter of the Kuwaiti leader of the Muslim Brotherhood, Tareq Al-Suwaidan. Hamas is the Palestinian offshoot of the Muslim Brotherhood.

105. After two of the three panelists withdrew from the panel, the panel was canceled. It is not publicly known which panelists withdrew.

106. On March 28, 2024, HLS's Student Government voted anonymously on a secret and rushed anti-Israel resolution accusing Israel of "ethnic cleansing," "genocide," and "illegal occupation of Palestine." Despite the fact that Israel exited Gaza in 2005, the resolution calls for Harvard "to divest completely from weapons manufacturers, firms, academic programs, corporations, and all other institutions that aid the ongoing illegal occupation of Palestine and the genocide of the Palestinians."⁶⁰

107. These modern-day Boycott, Divest, and Sanction resolutions are designed to mimic the "Don't buy from Jews" campaigns that the Nazi Party launched

⁵⁹ Zach Kessel, *Harvard Antisemitism Panel Moderated by Member of Group That Shared Antisemitic Cartoon*, National Review (Mar. 20, 2024), <https://www.nationalreview.com/news/harvard-hosting-islamophobia-antisemitism-and-religious-literacy-moderator-a-member-of-group-that-published-antisemitic-cartoon/>.

⁶⁰ @ShabbosK, X (Mar. 28, 2024, 10:55AM), <https://x.com/ShabbosK/status/1773363184914624575?s=20> (emphasis in original).

in Germany in the 1930s. Israeli is an easy euphemism for Jewish, given half of the world's Jewish population lives in Israel. The net effect is the same: no more Jewish professors on Harvard's campus if they happen to have an Israeli passport.

108. Over 500,000 Syrian civilians died in the Syrian civil war, while close to 400,000 have died in Yemen's civil war. These are contemporaneous conflicts that fail to garner even a modicum of ire from Harvard students. Upon information and belief, no student government at Harvard has issued a statement condemning Bashir al-Assad or the formerly designated Foreign Terrorist Organization Houthis.

109. The same student government that passed an anti-Israel resolution failed to condemn the gang-rape, mutilation, execution, and burning alive of Israeli civilians.

D. Member #4 Is Physically Assaulted, Bullied, and Defamed by Harvard Students

110. After Harvard allowed antisemitic hatred to fester for so long and these public and online threats to go unanswered, things were bound to turn physical.

111. On October 18, 2023, Member #4 was assaulted and bullied by a mob of anti-Israel protestors at Harvard. The entire event was captured on iPhone videos taken by student protestors, iPhone video taken by Member #4 himself, and by aerial news footage.

112. As the videos show, Member #4 was walking outside the Harvard Business School's Klarman Hall. He was wearing a blue bracelet, a public symbol of his Israeli identity and his solidarity with his homeland. While walking, he encountered a University-sanctioned "Stop the genocide in Gaza" "die-in" (the

“October 18 Demonstration”) taking place on the quad accessible to all Harvard students.

113. The October 18 Demonstration was coordinated by two organizations, “Harvard Undergraduate Palestine Solidarity Committee” and “Graduate Students 4 Palestine.”⁶¹ Scores of Harvard students gathered to protest Israel’s right to exist and to accuse Israel of “war crimes.”

114. A leader from a group invited to speak at the October 18 Demonstration explained that the protest was fueled by the belief that “Israel is a fascist, genocidal government” that operates an “apartheid regime . . . rooted in the same logic of settler colonialism.”⁶²

115. Several students at the event held up signs featuring slogans accusing Israel of committing “genocide” and calling for the eradication of the Jewish state—such as “From the River to the Sea!” and “Free Free Palestine!”

116. The event was being widely recorded by cameras, including by one on an NBC helicopter. Students used their phones to film the event, and Member #4 chose to do so as well. Like others had, Member #4 walked through the demonstration and silently recorded.

117. As Member #4 was walking and filming quietly, the protest’s designated “safety marshals”—which included at least one HDS student and one HLS student—

⁶¹ See Joyce E. Kim and Nia L. Orakwue, *Hundreds of Harvard Protesters Stage ‘Die-In’ to Demand End to Violence Following Gaza Hospital Blast*, Harvard Crimson (Oct. 19, 2023), <https://www.thecrimson.com/article/2023/10/19/harvard-die-in-palestine/>.

⁶² *Id.*

began to accost Member #4. Although the event was taking place in a University space and was ostensibly open to all students, Member #4 was repeatedly shouted at to “get out.”⁶³

118. The “safety marshals” had no legitimate reason to approach Member #4, to ask him to leave, and certainly not to accost him physically. Member #4 was doing nothing more than walking around silently, and—like other students who were not asked to leave—was filming the event on his phone.⁶⁴

119. The videos show numerous other individuals filming the event, and no other person with a camera or taking a video with a phone was approached by “safety marshals.”⁶⁵

120. One of the first students to confront Member #4 was a HLS student, who shoved a keffiyeh in Member #4’s face as he attempted to walk. It appears from the video that Member #4 said to him, “I’m allowed to be here,” to which the HLS student appears to respond, “I’m allowed to cover you.” Member #4 can be heard saying, “Back up.”⁶⁶

121. Shortly thereafter, a protester dressed in all black, including a black hood and black face mask, leapt up at Member #4.⁶⁷

⁶³ **Exhibit B.**

⁶⁴ *See id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

122. Following the lead of the designated “safety marshals,” additional individuals began to approach and gather around Member #4, surrounded him with keffiyehs, and then violently grabbed him. The mob that had formed swarmed in even closer, constantly repeating the word “exit”—making it very clear that somebody like Member #4, an Israeli Jewish student, was not welcome.⁶⁸

123. The mob succeeded in forcing Member #4 to the outside perimeter of the die-in, all while continuing to force their keffiyehs in his face. One individual threw his arm into Member #4’s neck.⁶⁹

124. When Member #4 attempted to move past the mob surrounding him, things took an even more violent turn. Multiple members of the mob began to forcefully grab him and physically push him back away from the protest. Member #4 repeatedly pleaded with those assaulting him to stop, but they refused. “Please don’t touch me” and “Please don’t grab me,” Member #4 repeated—firmly but peacefully, trying to deescalate.⁷⁰

125. Even as Member #4 attempted to walk by, however, the mob of students continued to surround him, press up against him, and shove protest signs and keffiyehs in his face. The crowd then began yelling chaotically in his face, “Shame! Shame! Shame!” hurling the invective at Member #4 over and over again.⁷¹ Fearful

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

for his safety, Member #4 tried to escape and was finally able to move past the protestors.

126. In the weeks that followed Member #4's attack, several Harvard students and at least one instructor, posted defamatory remarks on the internet about Member #4.

127. On November 1, 2023, a first-year law student at HLS accused Member #4 on X of acting "aggressive[ly]" and "taking invasive photos and getting in [the protestors'] faces." She falsely claimed that Member #4 was "masked/covered to hide his identity," and that "the safety marshals did NOT touch this student."

128. On November 2, 2023, the same first-year law student claimed on X that Member #4 was "nearly stepping on" the demonstrators "for the explicit purpose of doxing [sic] students." She repeated the falsehood that "safety marshals intervened without touching the student," and that Member #4 was "harass[ing] peaceful protestors."

129. On November 2, 2023, a second-year law student at HLS alleged on X that Member #4 had been "getting close to our faces and taking invasive pics" and "aggressively stepping over and near people." The student also falsely claimed that "nobody there got physical with" Member #4.

130. On December 2, 2023, these same two law students published an article on Medium accusing Member #4 of "harassment" at the event and blaming him for bringing the assault on himself.

131. On November 2, 2023, a clinical instructor at HLS also published an accusation on X that Member #4 was “being aggressive and stepping over people to put a camera in their face.”

132. Of course, none of this was true, and is directly belied by the video. Member #4 was physically assaulted at the die-in. And, unlike many of those who attacked him, Member #4 was not covering his face, he remained quiet and peaceful, and he was not acting aggressively or harassing anyone.⁷²

E. Member #5 Does Not Feel Safe or Comfortable On Campus, Commuting to Her Lab

133. Member #5 has endured a deeply hostile and antisemitic environment at Harvard. It has left her feeling alienated, uncomfortable, and unsafe.

134. Although she witnessed and experienced antisemitism before October 7, the frequency greatly increased in the weeks after the Hamas terrorist attack. On October 30, Member #5, during her morning walk to the bus stop, had to walk by a protest attended by Harvard students celebrating the terrorist attack and referring to it as an act of “justified resistance” by “brave freedom fighters.”

135. On a weekly basis thereafter, Member #5 encountered rabid protests on campus shouting chants like “There is only one solution: Intifada Revolution!”—referring to a violent uprising against Israeli Jews—and “Min il-mayye lal-mayye, Falastin ‘arabiyye!”—an Arabic chant translating to “From the water to the water, Palestine will be Arab.” The protests induced such a high degree of anxiety in Member

⁷² See **Exhibit B**.

#5 that she started commuting less frequently to the Longwood campus, deciding to work remotely from her apartment instead of risking a sometimes hour-long wait for the Harvard shuttle, during which she would often be in close proximity to protest activity. She was worried about protests becoming violent and about the emotional trauma she would endure from experiencing so much anti-Jewish hatred on Harvard's campus.

136. Member #5 also has an “X” account and has seen numerous antisemitic, anti-Israel posts by physicians, professors, and researchers affiliated with Harvard. This has made it incredibly difficult for her to engage with those faculty members, see them at interdisciplinary seminars or networking events for women in STEM, or to go to campus in general. As just a few of many examples, Professor Nasrien E. Ibrahim, MD, MPH, an Assistant Professor of Medicine, Harvard Medical School, reposted a tweet saying, “Explain to me again the difference between Hitler exterminating the Jews and the Jews exterminating the Palestinian people.”⁷³ And Professor Lara Jirmanus, MD, MPH, a Clinical Instructor at Harvard Medical School, and a Fellow at the FXB Center at the Harvard T. H. Chan School of Public Health, posted that “Zionists have been violently displacing & dispossessing Palestinians to achieve [their] ‘dream’ for over 75 years,” in response to a tweet stating, “Zionist doctors have facilitated in the genocide of Palestinians.”⁷⁴

⁷³@socialiststeve6, X (Feb. 8, 2024, 1:49AM), <https://twitter.com/socialiststeve6/status/1755483939785801859> (reposted at @DrNasrien, X (Feb. 8, 2024), https://twitter.com/DrNasrien/with_replies)

⁷⁴ @larazjmd, X (Jan. 7, 2024, 2:00 AM), <https://twitter.com/larazjmd/status/1743890311871389755>.

137. While attending on-campus events, organized by Harvard Chabad, to show support for the Israeli hostages being held by Hamas, Member #5 was approached by Harvard students screaming, “Fuck you! Free Palestine! Harvard supports genocide!” and “You guys are liars!”

138. At some point in the weeks after October 7, Member #5 became so distraught and uncomfortable with the campus environment, and with public displays of antisemitism from students and faculty that often went unchallenged by colleagues, that she stopped commuting to the Longwood campus altogether and now she works almost exclusively from her apartment. She also rarely walks through Harvard campus alone, and tries to go only with her dog or a group of friends out of concern for her safety. If she does have to walk through campus for some reason, she checks online first to see if and where any protests are scheduled.

F. Plaintiffs and Their Members Continue to Call for Harvard to Take Action, but to No Avail

139. On October 30, 2023, the Brandeis Center sent a letter to Diane Lopez, the Vice President General Counsel for Harvard University.⁷⁵ The letter notified Ms. Lopez of Harvard’s failure to take any remedial action with respect to HKS Members, despite the Investigative Report that had been issued four months earlier.

140. Further, the letter highlighted the acute danger of failing to address the discrimination in the context of the antisemitism and anti-Israel discrimination that had just erupted on campus in Fall 2023. As the letter explained, Harvard’s response

⁷⁵ Attached hereto as **Exhibit G (redacted)**.

to the Hamas terrorist attacks was woefully insufficient, and Harvard had made no real effort to protect Jewish students on campus or to condemn the antisemitic protests.⁷⁶

141. Ms. Lopez responded a week later, in a letter dated November 7, 2023.⁷⁷ In the letter, Ms. Lopez offered bland and cursory statements about Harvard’s general “commitment” to a safe environment for “all students,” and she provided a list of resources for students who have experienced discrimination.⁷⁸

142. Ms. Lopez assured HKS Members that Harvard “has and continues to comply with all applicable laws and regulations”—despite the Investigative Report’s finding to the contrary, and Harvard’s subsequent failure to act to remedy the violations found in the Investigative Report.⁷⁹ The letter also did not describe any specific remedial action that Harvard has taken or would undertake with respect to HKS Members or Professor Ganz—except to say that, in general, it “has undertaken a number of these measures, as well as others that the School is not permitted to disclose under its personnel policies.”⁸⁰

143. Since Ms. Lopez’s letter on November 7, 2023, Harvard has not sent any further communication to HKS Members or taken any further action with regard to HKS Members, Professor Ganz, or the Investigative Report.

⁷⁶ See **Exhibit G**.

⁷⁷ Attached hereto as **Exhibit H**.

⁷⁸ See **Exhibit H**.

⁷⁹ *Id.* at 3.

⁸⁰ *Id.*

144. Less than a week later, on November 13, 2023, Member #4 filed his own complaint with HLS, detailing the verbal harassment and physical assault that he endured at the October 18 Demonstration by multiple Harvard graduate students, including one who currently is completing his second year at HLS.

145. On November 15, 2023, Member #4 also filed a complaint with HDS detailing the verbal harassment and physical assault that he endured at the October 18 Demonstration by multiple Harvard graduate students, including one who currently is completing his second year at HDS.

146. Member #4's complaints described the physical and verbal harassment and bullying that he endured as he attempted to walk across the Harvard Quad and was accosted by several attackers, at least two of whom were, and still are, current students at HDS and HLS. Member #4 included in his complaints to HDS and HLS a video recorded by Member #4 during the October 18 Demonstration, as well as video of his assault from other vantage points.

147. Nonetheless, with regard to the physical attack against Member #4—well-documented on iPhone videos and helicopter footage—Harvard has engaged in delay tactics in an effort to sweep the incident under the rug without punishing the attackers.

148. Rather than take any direct or immediate action, former Harvard President Claudine Gay reported publicly on November 9, 2023 that the “incident is

being investigated by the FBI and the Harvard University Police Department.”⁸¹ Dr. Gay continued: “[c]onsistent with our standard practice, once law enforcement’s inquiry is complete, the University will address the incident through its student disciplinary procedures to determine if University policies or codes of conduct have been violated and, if so, take appropriate action.”⁸²

149. But nothing in Defendant’s policies states that it cannot or should not address complaints of discrimination, harassment, or violence until a related law enforcement investigation is complete. And there is no such “standard practice,” as Harvard has acted swiftly in response to other incidents of violence.⁸³ In reality, there is no reason that Harvard could not have disciplined, suspended, or expelled the attackers for violating Harvard school policies, or that it could not do so now. Doing so would in no way interfere with, undermine, or affect any law enforcement efforts to investigate criminal violations at the same time. Harvard’s message was clear: discrimination, harassment, or violence is acceptable so long as it is directed at Israelis and Jews.

150. To that end, the single investigation commissioned by Harvard into the physical attack against Member #4 stalled until Congress intervened.

⁸¹ *Combating Antisemitism, Statement from Claudine Gay, President, Harvard University* (Nov. 9, 2023), <https://www.harvard.edu/president/news/2023/combating-antisemitism/>.

⁸² *Id.*

⁸³ See e.g., Jo B. Lemann et al., *Harvard Law School Student Charged With Assaulting Student in Homophobic Attack*, *Harvard Crimson* (Feb. 9, 2023), <https://www.thecrimson.com/article/2023/2/9/harvard-law-homophobic-attack/>.

151. On January 3, 2024, Harvard's outside counsel contacted Member #4's attorneys to inform them that Harvard had retained the counsel's firm to conduct an external investigation into the physical attack against Member #4 on October 18, 2023.

152. On January 5, 2024, attorneys from the outside firm met with Member #4's attorneys via Zoom. Shortly after that meeting, on that same day, Member #4's attorneys sent the outside attorneys video footage of the incident in which Member #4 was physically attacked.

153. There was no further movement on the investigation until April 10, 2024, the night before Representative Elise Stefanik sent a letter to Harvard and made the letter public the same day.

154. Though Harvard allegedly initiated an external investigation into the physical attack against Member #4, upon information and belief, Harvard's outside counsel did not schedule an interview with Member #4 until after Representative Stefanik's letter was made public.

155. Given that at least one of the perpetrators was slated to graduate this coming May, Member #4's attorneys sent one of the outside attorneys a letter on March 22, 2024, requesting an update on the investigation, including substantive actions taken by the firm or by Harvard University to ensure that the complaint against the graduating student would be resolved prior to graduation.

156. Harvard's outside counsel now claims that neither perpetrator is graduating in May 2024, but that appears to contradict the HDS student's own

LinkedIn profile and numerous news stories about the student's two-year Harvard program. Similarly, the HLS student has been described as a "3L" and "HLS '24" in numerous writings and stories before the October demonstration.

157. With regard to the criminal matter concerning the two known perpetrators of the physical attack against Member #4, the clerk's hearing in Suffolk County occurred on May 8, 2024 after the attorney for the two known perpetrators advocated for the clerk's hearing to be rescheduled to a much later date.

158. Upon information and belief, Harvard staff and employees assisted the attorney of the two perpetrators in delaying the date of the clerk's hearing by a significant amount of time, thereby ensuring that the matter likely would not be resolved before the end of the school year.

159. During the May 8 hearing, the clerk-magistrate found probable cause to issue criminal complaints against both perpetrators. As a result, on May 9, each was charged with misdemeanors for assault & battery and violating Member #4's civil rights. Their arraignments are scheduled for June 2024.

160. To date, HLS, HDS, and Harvard University have not announced any suspensions or expulsions of Member #4's attackers. Worse still, HLS, HDS, and Harvard University have not even opened any formal investigation into the actions of the HDS and HLS students—as they are required to do under each of their respective codes, policies, and procedures—despite Member #4's timely complaints in November 2023. Upon information and belief, the external law firm's investigation is

only preliminary and will recommend to Harvard whether the University should open a formal investigation.

161. Member #4 followed the requirements under Harvard’s policies and took all necessary steps to report his complaints to the appropriate channels—as laid out by the Defendant’s policies to supposedly ensure its students are protected from the exact situation that Member #4 experienced.

162. Member #5 has emailed Harvard administrators on numerous occasions, pleading for help and requesting meaningful changes on campus to create a safer environment for Jewish students. But, to date, she has received only automated email responses, and has never been contacted directly by school officials. Member #5 also tried to file a formal complaint with Harvard’s Office for Equity, Diversity, Inclusion, and Belonging based on antisemitic and anti-Israel online posts by physicians, professors, and researchers affiliated with Harvard that violated University policy. But Member #5 was informed that she could not remain anonymous if she wanted to proceed with a formal complaint. Fearing retaliation or retribution from the faculty she works with, she decided not to move forward.

G. Harvard’s Double Standard Disfavors Jews

163. Harvard has failed the Brandeis Center’s and JAFE’s members and its entire Jewish student population by selectively enforcing Harvard’s codes, policies, and procedures and choosing to “address” antisemitism far more leniently than with other types of discrimination. Had the Brandeis Center’s and JAFE’s members been members of any other protected class, Harvard would have disciplined the offenders swiftly and vigorously.

164. In the last few years, the school has been vigilant to oust students or force out professors for taking positions that do not fit the school's political orthodoxy.⁸⁴ For example, Harvard cancelled a professor's course focused on police counterinsurgency tactics after a student petition argued that those tactics disproportionately affected minorities.⁸⁵ It reportedly disinvited a scholar from lecturing on British Romanticism because of her public statements on gender identity.⁸⁶ Between 2017 and 2020, Harvard added members of independent, single-sex, off-campus organizations to a blacklist that stripped them of academic opportunities, including recommendations for Rhodes and Marshall scholarships, as well as leadership opportunities in Harvard-sponsored clubs and sports teams.⁸⁷ The school sanctioned a Christian campus group for pressuring a female leader to resign following her decision to date a woman.⁸⁸

⁸⁴ See *College Free Speech Rankings: What Is the State of Free Speech on America's College Campuses?*, FIRE, 21 (2024), https://www.thefire.org/sites/default/files/2023/09/CFSR%202024_final_updated.pdf (noting that Harvard attempted to "deplatform" nine students or faculty for politically disfavored expression, and that seven of the attempts resulted in some form of sanctions).

⁸⁵ See Natalie L. Kahn and Simon J. Levien, *SEAS Cancels Class on Controversial Policing Strategy After Student Petition*, Harvard Crimson, <https://www.thecrimson.com/article/2021/1/26/seas-cancels-policing-course/>.

⁸⁶ Caroline Downey, *Feminist Philosopher Disinvited from Speaking at Harvard over Trans Views*, National Review (Apr. 25, 2022), <https://www.nationalreview.com/news/feminist-philosopher-disinvited-from-speaking-at-harvard-over-trans-views/>.

⁸⁷ See Ryne Weiss, *Harvard Corporation finalizes single-gender organization sanctions policy*, FIRE, <https://www.thefire.org/news/harvard-corporation-finalizes-single-gender-organization-sanctions-policy>.

⁸⁸ See Caroline S. Engelmayr and Michael E. Xie, *College Places HCFA On 'Probation' After Group Barred Student in Same-Sex Relationship from Leadership*, Harvard Crimson <https://www.thecrimson.com/article/2018/2/22/hcfa-on-probation/>.

165. Recognizing that Harvard has selectively failed to protect Jewish students, faculty, and staff members from incidents of antisemitism, on December 7, 2023, the House Education and the Workforce Committee, a congressional committee, announced an investigation into “the learning environments at Harvard” and its “policies and disciplinary procedures.”⁸⁹ Harvard has not complied with the investigation, failing to submit documents the committee had requested while flooding the committee with publicly available pages containing inexplicable redactions.⁹⁰ As a result, the committee was forced to take legal measures, serving subpoenas for documents to three senior officials at Harvard.⁹¹ As Chairwoman Virginia Fox observed: “If Harvard is truly committed to combating antisemitism, it has had every opportunity to demonstrate its commitment with actions, not words.”⁹²

H. Individual Plaintiffs and Members of the Brandeis Center and JAFE Have Suffered from Discrimination and Have Lost Out on Educational Benefits to which They Are Entitled

166. Antisemitic discrimination and Harvard’s double standard have taken a significant psychological, emotional, and physical toll on the Individual Plaintiffs and on the Brandeis Center’s and JAFE’s members. All have also lost out on educational benefits to which they are entitled, including, but not limited to, physical protection

⁸⁹ Press Release, Comm. on Educ. & the Workforce, Foxx Announces Formal Investigation into Harvard, UPenn, and MIT (Dec. 7, 2023), <https://edworkforce.house.gov/news/documentsingle.aspx?DocumentID=409851>.

⁹⁰ Press Release, Comm. on Educ. & the Workforce, Foxx Threatens Subpoena if Harvard Defies Final Warning in Antisemitism Probe (Feb. 7, 2024), <https://edworkforce.house.gov/news/documentsingle.aspx?DocumentID=410104>.

⁹¹ Press Release, Comm. on Educ. & the Workforce, Foxx Subpoenas Harvard (Feb. 16, 2024), <https://edworkforce.house.gov/news/documentsingle.aspx?DocumentID=410149>.

⁹² *Id.*

from assault and mob violence, an inclusive environment, the ability to freely participate in all classes and extracurricular activities, and the ability to express their Jewish and/or Israeli identity in class e.

167. Member #3, for example, has felt deeply uncomfortable at Harvard during, and following, the HKS course with Professor Ganz. He still feels that he is not welcome in other HKS courses. He believes that he needs to self-censor and/or not go to places on campus where Jewish Israeli students are unwanted—thereby limiting his educational opportunities.

168. Member #2 also felt deeply uncomfortable and felt that his Israeli and Jewish identity is illegitimate or disfavored on campus. In that way, Member #2's learning experience has been hindered substantially, and the educational goals that he had set for himself have been impeded. As just one example, after Professor Ganz's course, Member #2 attended a panel on campus, and Professor Ganz was one of the four speakers. Seeing Professor Ganz speak made Member #2 feel uncomfortable and caused him to be unable to focus in on the other speakers or learn anything from the discussion.

169. Member #1 also suffered serious distress from the incidents in the course, which eventually became so severe that it caused or exacerbated kidney problems for which he had to seek medical treatment. At his medical appointment, Member #1's doctor observed that he seemed stressed and that the stress appeared to have caused or worsened his symptoms. Member #1 felt excluded and deeply

uncomfortable in his course with Professor Ganz, which soured his overall experience at Harvard.

170. Member #5 has been hesitant to leave her apartment on most days, which is not her preference. She rarely commutes to her lab and instead works from home. When she did commute to the lab in the weeks following October 7, she witnessed rabid, highly offensive antisemitic protests attended and advertised by Harvard student groups, and then cried in the bathroom after she arrived at work. At that point, she was not and could not be herself throughout the day. She felt uncomfortable and unsafe, and she could not focus on her work. Her colleagues noticed that she was distracted, and she was not performing at the level that she usually does.

171. Member #5 has suffered from worsening anxiety and depression in the last few months. She sees a psychiatrist regularly and has been prescribed increased doses of medication for anxiety and depression. She is not sleeping well, nor is she able to eat, concentrate, or function normally. She desperately wants to move back to her childhood home in Florida to complete her dissertation remotely, but she was told by her advisors that it would be difficult to do so from an administrative perspective, and she does not want to be dropped from her program. She feels stuck at her own school and trapped in her own apartment.

172. At bottom, with Harvard allowing antisemitic hatred, threats, and violence to pervade its campuses and failing to take meaningful actions to reject those activities, Plaintiffs' members have begun to feel increasingly unsafe and unwelcome

at Harvard. Plaintiffs’ members (including, but not limited to Members #1–5) have felt the need to self-censor, both in and out of the classroom, and avoid taking certain classes, attending certain events, or traversing certain areas on campus—all out of fear that they will be physically or verbally abused because of their religion, national origin, ethnicity, and ancestry.

I. Harvard’s Actions and Inactions Violate Multiple School Policies

173. Harvard has at least five policies designed and intended to protect students from the exact type of discrimination, retaliation, harassment, and violence that the Brandeis Center’s and JAFE’s members endured. Those policies include: (i) the “Harvard University Non-Discrimination Policy” and the “Harvard University Anti-Bullying Policy”; (ii) the “University-Wide Statement on Rights and Responsibilities”; (iii) the “Statement of the President and Deans on University Rights and Responsibilities”; (iv) Harvard College Student Handbook Academic Year 2023-2024; (v) Harvard Divinity School Handbook for Students 2023-2024 (the “HDS Handbook”); (vi) Harvard Kennedy School, 2023-2024 Student Handbook (the “HKS Handbook”); and (vii) Harvard Law School Handbook of Academic Policies 2023-2024 (the “HLS Handbook”).⁹³

174. These statements, policies, and handbooks state that the policy of Harvard is to treat all members of the community with respect, to provide an environment conducive to learning, and to ensure equal access to rights, privileges,

⁹³ Attached hereto as **Exhibits I, J, K, L, M, N, and O**, respectively.

and opportunities without regard to race, color, religion, creed, national origin, ancestry, or any other legally protected basis.⁹⁴

175. The statements, policies, and handbooks further affirm that discrimination or harassment on the basis of any of these characteristics is inconsistent with Harvard principles and policies.⁹⁵ All of the codes, policies, and procedures also place emphasis upon freedom of speech and academic freedom, freedom from personal force and violence, and freedom of movement.⁹⁶

176. Harvard assures and represents to its students that it is “committed to the principles of equal opportunity” and “to cultivating a community that is open, welcoming, and inclusive.”⁹⁷ Among other things, Harvard also repeatedly promises that principles of “fairness, rigor, and impartiality” will be observed throughout the process once a complaint is filed alleging a violation of its policies.⁹⁸

177. Nonetheless, in direct violation of Harvard policies, the Brandeis Center’s and JAFE’s members—including Members #1–5 were subjected to discrimination and retaliation based on their ancestry and religion. Indeed, the Investigative Report that Harvard commissioned concluded that HKS’s discriminatory conduct was inconsistent with “[HKS’s principles and] expectations

⁹⁴ See **Exhibit L** at 96, **Exhibit M** at 108; **Exhibit N** at 36; and **Exhibit O** at 95.

⁹⁵ See **Exhibit L** at 50; **Exhibit M** at 107; **Exhibit N** at 30; and **Exhibit O** at 95.

⁹⁶ See **Exhibit L** at 52; **Exhibit M** at 99; and **Exhibit O** at 11.

⁹⁷ **Exhibit I** at 1, 11.

⁹⁸ *Id.* at 4, 15.

that students enjoy a learning environment free from bias.”⁹⁹ Specifically, it “violated the HKS Statement of Rights and Responsibilities and the University-Wide Statement on Rights and Responsibilities.”¹⁰⁰

1. Harvard University’s Non-Discrimination Policy

178. Harvard University’s Non-Discrimination Policy (the “Non-Discrimination Policy”) states that “Harvard University is committed to the principles of equal opportunity in education” and that discrimination based on race, color, national origin, ancestry, or religion, among other protected categories, “is unlawful and is prohibited by this Policy.”¹⁰¹

179. The Non-Discrimination Policy applies to all students, faculty, staff, researchers, and other members of the Harvard community across all schools and units, including HKS, HLS, and HDS. The Non-Discrimination Policy further “prohibits retaliation for asserting one’s rights to a work or educational setting free of discrimination on the bases specified by this policy.”¹⁰²

180. The Non-Discrimination Policy defines “[d]iscriminatory disparate treatment” as “singling out or targeting an individual for less favorable treatment because of their protected characteristic” and states that “[i]n the education context, to rise to the level of discrimination, the treatment must unreasonably interfere with

⁹⁹ **Exhibit A** at 23.

¹⁰⁰ *Id.* at 26.

¹⁰¹ **Exhibit I** at 1.

¹⁰² *Id.*

or limit the student’s ability to participate in or benefit from the institution’s programs and activities.”¹⁰³

181. The Non-Discrimination Policy further provides the following examples of “[d]iscriminatory disparate treatment”:

- “Imposing more severe discipline on a student or employee because of their protected characteristic”; and
- “Giving a negative performance evaluation or grade/academic assessment because of an individual’s protected characteristic.”¹⁰⁴

182. When a formal complaint is made, Harvard normally will investigate, and those found to have violated the Non-Discrimination Policy will face sanctions and remedial measures, including suspension, mandatory coaching and training, or termination.¹⁰⁵

2. Harvard University’s Anti-Bullying Policy

183. Harvard University’s Anti-Bullying Policy (the “Anti-Bullying Policy”) states that “Harvard University is committed to cultivating a community that is open, welcoming, and inclusive, and that supports all community members in pursuit of the University’s mission of learning, teaching, research, and discovery.”¹⁰⁶ As such, “[b]ullying, hostile and abusive behavior, and power-based harassment directly threaten the ability of community members to engage in the free exchange of ideas

¹⁰³ *Id.* at 2.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.* at 10.

¹⁰⁶ *Id.* at 11.

and pursue their educational and professional goals . . . [and] are prohibited at Harvard.”¹⁰⁷ The Anti-Bullying Policy promises to “respond promptly to reports of bullying and . . . take appropriate action to prevent and respond to behavior that violates the Policy.”¹⁰⁸

184. The Anti-Bullying Policy applies to all students, faculty, staff, researchers, and other members of the Harvard community across all schools and units, including HKS, HLS, and HDS.¹⁰⁹

185. The Anti-Bullying Policy further defines bullying as “harmful interpersonal aggression by words or actions that humiliate, degrade, demean, intimidate, or threaten an individual or individuals.”¹¹⁰

186. The Anti-Bullying Policy provides that for a violation to occur, “such aggression must be sufficiently severe or pervasive, and objectively offensive, that it creates a work, educational, or living environment that a reasonable person would consider intimidating, hostile, or abusive and denies the individual an equal opportunity to participate in the benefits of the . . . institution’s programs and activities.”¹¹¹

187. The Anti-Bullying Policy provides the following examples of bullying:

- “Abusive expression directed at an individual or individuals, such as derogatory remarks, epithets, or ad hominem attacks that are outside the range of commonly accepted expressions of disagreement,

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.* at 12.

¹¹¹ *Id.*

disapproval, or critique in an academic community and professional setting that respects free expression.”

- “Unwarranted physical contact or intimidating gestures directed at an individual or individuals. Examples include:
- A physical, verbal, or written act toward another person, which causes them reasonably to fear for their safety or the safety of others.

Invading personal space after being asked to move or step away.”

188. When a formal complaint is made, Harvard normally will investigate, and those found to have violated the Non-Discrimination Policy will face sanctions and remedial measures, including suspension, mandatory coaching and training, or termination.

3. University-Wide Statement on Rights and Responsibilities at Harvard

189. Harvard University’s “Statement on Rights and Responsibilities”—adopted on September 20, 1970, and in effect indefinitely since 1977¹¹²—asserts that “[b]y accepting membership in the University, an individual joins a community ideally characterized by free expression, free inquiry, intellectual honesty, respect for the dignity of others, and openness to constructive change.”

190. Moreover, the Statement on Rights and Responsibilities declares that “it is the responsibility of all members of the academic community to maintain an atmosphere in which violations of rights are unlikely to occur and to develop processes by which these rights are fully assured. In particular, it is the responsibility of officers of administration and instruction to . . . give full and fair hearing to

¹¹² **Exhibit J.**

reasoned expressions of grievances; and to respond promptly and in good faith to such expressions and to widely expressed needs for change.”¹¹³

191. The Statement on Rights and Responsibilities also states that “[i]t is implicit in [its] language . . . that intense personal harassment of such a character as to amount to grave disrespect for the dignity of others be regarded as an unacceptable violation of the personal rights on which the University is based.”¹¹⁴

4. Statement of the President and Deans on University Rights and Responsibilities

192. Harvard University’s “Statement of the President and Deans on University Rights and Responsibilities”—adopted in 2002 and appended to the University-Wide Statement on Rights and Responsibilities—affirms Harvard’s “commitment to ensuring that all members of the University are able to carry out their normal duties and activities in support of the University’s mission without interference or constraint by others.”¹¹⁵ This statement “emphasize[s] the serious nature of building occupations that interfere with the ability of members of the University to carry out their normal duties and activities and the serious consequences that should follow from such interference,” including being “subject to suspension” or an appropriate sanction.¹¹⁶

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ **Exhibit K.**

¹¹⁶ *Id.*

193. Moreover, this statement notes that Harvard “believe[s] it important, when a building occupation or similar acts involve participants from different Schools, that steps be taken toward coordination in the approach to discipline.”¹¹⁷

5. School Handbooks

194. According to the HKS Handbook, everyone in the HKS community is committed to:

- “Building a Positive Learning Environment
 - Participating constructively and collegially in class and in activities outside of class, so that everyone can do their best work.
 - Fostering open and civil discussion by listening to and being open to learning from others.”
- “Fostering Mutual Respect
 - Treating all members of the HKS community with civility and respect.
 - Appreciating diversity and helping to create an inclusive environment where everyone belongs.”¹¹⁸

195. The HKS Handbook contains the HKS “Code of Conduct”, which further outlines the following principles to accomplish HKS’s mission of an environment of mutual respect and professionalism:

1. “Respect for all members of our community and for the space we share.
2. Professional excellence and intellectual and academic rigor and integrity.
3. A disciplined learning environment, respecting different opinions and cultures and contributing to the understanding of all.

¹¹⁷ *Id.*

¹¹⁸ **Exhibit N** at 30.

4. Accountability for actions inconsistent with this Code of Conduct.”¹¹⁹

196. The HKS Handbook also contains a “HKS Diversity Statement”, which notes that HKS “is committed to advancing the public interest by training enlightened leaders and solving public problems.”¹²⁰ Further, HKS “faculty, students, and staff are exposed to and learn to understand a broad array of ideas, insights, and cultures,” and HKS “actively pursues the expansion and maintenance of an atmosphere that welcomes new ideas—even unpopular and controversial ones—and encourages an effective and active exchange of views in an environment of mutual respect.”¹²¹ The HKS Handbook explicitly proclaims its commitment to diverse, respectful exchanges:

The Kennedy School’s curriculum deals with issues of diversity and encourages students and faculty to talk openly and effectively about difficult and highly charged issues. . . . We emphasize the powerful benefit of the exchange of ideas. The School enlists students in efforts to make classrooms and classmates more welcoming of the ideas and insights that students from different backgrounds and perspectives offer. And we seek to correct situations where full and open exchange of ideas has been limited.¹²²

197. The HKS Handbook standard of conduct on “Open Debate, Protest, and Dissent at HKS” propounds that HKS “is committed to open and civil discussion” and

¹¹⁹ *Id.* at 31.

¹²⁰ *Id.* at 36.

¹²¹ *Id.*

¹²² *Id.*

that “[l]istening to and learning from others is fundamental to the educational process and essential to [HKS’s] mission of improving public policy and leadership.”¹²³

198. The HKS Handbook repeatedly asserts the importance of diverse discussions, noting that HKS “actively pursues the expansion and maintenance of an atmosphere that welcomes new ideas—even unpopular and controversial ones—and encourages an effective and active exchange of views in an environment of mutual respect.”¹²⁴

199. The HKS Handbook explains that any violations of its guidelines would be grounds for appropriate disciplinary action.¹²⁵

200. According to the HLS Handbook, Member #4’s attackers, at least one of whom was an HLS student, also violated several of HLS’s core “values which are essential to its nature as an academic community,” including HLS’s commitment to “freedom from personal force and violence[] and freedom of movement.”¹²⁶ Any interference with either of these rights in particular is regarded as “a serious violation of the personal rights.”¹²⁷

201. According to the HDS Handbook, Member #4’s attackers, at least one of whom was an HDS student, also violated several of HDS’s “rules or standards of

¹²³ *Id.* at 37.

¹²⁴ *Id.* at 36.

¹²⁵ *Id.* at 39.

¹²⁶ **Exhibit O** at 11.

¹²⁷ *Id.*

conduct” by engaging in “harassment, disorderly conduct, . . . conduct that threatens the health or safety of any person, . . . physical violence or abuse, [and] verbal abuse.”¹²⁸

6. Federal Law Protects Individual Plaintiffs and Associational Plaintiffs’ Members from Antisemitism

202. Title VI of the Civil Rights Act of 1964 prohibits all forms of harassment tied to a person’s ancestry or ethnic characteristics, including antisemitism.

203. On September 28, 2023, the Biden Administration noted in a Fact Sheet that “eight federal agencies clarified . . . that Title VI of the Civil Rights Act of 1964 prohibits certain forms of antisemitic, Islamophobic, and related forms of discrimination in federally funded programs and activities.” It also reiterated that “Title VI of the 1964 Civil Rights Act applies to all programs and activities supported by federal financial assistance. Thus, these protections are wide-ranging and provide important tools to prevent and curb discrimination.”¹²⁹

204. Title VI of the Civil Rights Act applies to any “program or activity receiving Federal financial assistance.” 42 U.S.C. § 2000d.

205. Defendant receives federal financial assistance from the United States Department of Education and is therefore subject to suit under Title VI.

206. At all relevant times, Defendant’s faculty, staff, administration, and other employees and/or affiliates (“Defendant’s Agents”) were acting within the scope

¹²⁸ **Exhibit M** at 136.

¹²⁹ *Fact Sheet: Biden-Harris Administration Takes Landmark Step to Counter Antisemitism*, White House (Sept. 28, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/09/28/fact-sheet-biden-harris-administration-takes-landmark-step-to-counter-antisemitism/>.

of their employment and/or at the direction and control of Defendant. Moreover, at all relevant times, appropriate Defendant's Agents were made aware of and took no action against the conduct of its agents, thereby ratifying their conduct and rendering Defendant liable for the conduct of its agents.

207. Discrimination against Jews and Israelis is prohibited under Title VI, as reflected in the written policies of the OCR.

208. Members #1–5 are all Jewish and/or of Israeli descent, and therefore, are members of a protected class within the scope of Title VI's protections.

CAUSES OF ACTION

COUNT I

VIOLATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, 42 U.S.C. § 2000D

(DIRECT DISCRIMINATION)

209. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 208 as if fully set forth herein.

210. Title VI of the Civil Rights Act of 1964 provides: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. § 2000d.

211. Members #1–5 and certain members of the Brandeis Center and JAFE are Jewish and/or of Israeli descent and therefore are members of a protected class within the scope of Title VI's protections.

212. Members #1–5 and certain members of the Brandeis Center and JAFE—who at all relevant times paid tuition to Defendant—were qualified to continue the pursuit of their education.

213. Members #1–5 and certain members of the Brandeis Center and JAFE are entitled to the benefits of educational and other programs at Harvard.

214. As a direct result of being a member of a protected class, Members #1–5 and certain members of the Brandeis Center and JAFE suffered several adverse actions while at Harvard and were subjected to discrimination by Defendant based on their Israeli national origin and Jewish ethnicity and ancestry.

215. Defendant violated Title VI by subjecting Members #1–5 and certain members of the Brandeis Center and JAFE to a series of intentional hostile acts and adverse actions while they were in pursuit of their education. These acts were designed to deprive Members #1–5 and certain members of the Brandeis Center and JAFE of the benefits of their education and derail their academic pursuit because of their national origin, ethnicity, and ancestry.

216. Defendant directly and intentionally discriminated against HKS Members. The acts of discrimination include, but are not limited to, the following: Professor Ganz and the HKS teaching fellows' attempts to silence HKS Members on the basis that speech about Israel could disrupt or divide a class; Professor Ganz and the HKS teaching fellows' preferential treatment of the ethnic and political views of his other students over those of Jewish Israeli students; and Professor Ganz and the HKS teaching fellows' denigration of HKS Members' identities as Jewish Israelis.

217. Defendant directly and intentionally discriminated against Member #4 by fabricating an entirely new “standard practice” for addressing Member #4’s assault, which had been captured on camera at three different angles. There is no such policy or practice to await the criminal process before initiating the University disciplinary process.

218. Members #1–5 and certain members of the Brandeis Center and JAFE were treated differently from their similarly situated non-Jewish, non-Israeli classmates. There was no legitimate, non-discriminatory reason for this adverse, disparate treatment.

219. Defendant also failed to address other instances of discrimination that occurred on its campus and reported to university administrators.

220. The discrimination deprived Members #1–5 and certain members of the Brandeis Center and JAFE of equal access to educational opportunities and benefits provided to other students at Harvard. As a result of the discrimination they faced, Members #1–5 and certain members of the Brandeis Center and JAFE were unable to get the full value of the degree for which they worked for several years.

221. Defendant failed to cure or otherwise adequately address this discrimination against Members #1–5 and certain members of the Brandeis Center and JAFE, and it instead acted with deliberate indifference toward them.

222. Defendant’s actions and conduct had, and continue to have, a disparate impact upon Members #1–5 and certain members of the Brandeis Center and JAFE.

223. As a direct and proximate result of Defendant’s actions and inactions, Members #1–5 and certain members of the Brandeis Center and JAFE were deprived of access to educational opportunities and benefits, including the ability to receive an education in an environment free from discrimination and intimidation, the ability to fully and freely participate in all classes and campus activities without fear of discrimination and intimidation, and the loss of significant class time and group learning, which further impacted their academic performance.

COUNT II

VIOLATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, 42 U.S.C. § 2000D

(HOSTILE EDUCATIONAL ENVIRONMENT)

224. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 223 as if fully set forth herein.

225. The May 25, 2023 OCR Letter states, “Schools must take immediate and appropriate action to respond to harassment that creates a hostile environment.”¹³⁰

226. The August 24, 2023 OCR Letter notes: “OCR could find a Title VI violation in its enforcement work if: (1) a hostile environment based on race existed; (2) the school had actual or constructive notice of the hostile environment; and (3) the school failed to take prompt and effective steps reasonably calculated to (i) end the

¹³⁰ Letter from Catherine E. Lhamon, Assistant Sec’y for Civil Rts., U.S. Dep’t of Educ. to Colleague at 1 (May 25, 2023), <https://www2.ed.gov/about/offices/list/ocr/docs/antisemitism-dcl.pdf>.

harassment, (ii) eliminate any hostile environment and its effects, and (iii) prevent the harassment from recurring.”¹³¹

227. “OCR interprets Title VI to mean that the following type of harassment creates a hostile environment: unwelcome race-based conduct that, based on the totality of circumstances, is subjectively and objectively offensive and is so severe or pervasive, that it limits or denies a person’s ability to participate in or benefit from the recipient’s education program or activity (i.e., creates a hostile environment). . . . To redress a hostile environment, a school has a legal duty to take prompt and effective steps that are reasonably calculated to: (1) end the harassment, (2) eliminate any hostile environment and its effects, and (3) prevent the harassment from recurring.”¹³²

228. Members #1–5 and certain members of the Brandeis Center and JAFE are Jewish and of Israeli descent, and therefore, are members of a protected class within the scope of Title VI’s protections.

229. As a direct result of their being members of a protected class, Members #1–5 and certain members of the Brandeis Center and JAFE suffered several adverse actions while at Harvard and have been subjected to discrimination by Defendant based on their Jewish and Israeli ancestry and religion.

¹³¹ Letter from Catherine E. Lhamon, Assistant Sec’y for Civil Rts., U.S. Dep’t of Educ. to Colleague at 4 (Aug. 24, 2023), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-20230824.pdf>.

¹³² Letter from Catherine E. Lhamon, Assistant Sec’y for Civil Rts., U.S. Dep’t of Educ. to Colleague at 4-6 (Aug. 24, 2023), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-20230824.pdf>.

230. Defendant had actual knowledge of the discrimination against Members #1–5 and certain members of the Brandeis Center and JAFE, and yet it was deliberately indifferent to such discrimination.

231. Members #1–5 and certain members of the Brandeis Center and JAFE have been denied the benefits of educational and other programs at Harvard.

232. Members #1–5 and certain members of the Brandeis Center and JAFE faced harassment because of their race, national origin, and/or religion and were subject to a hostile educational environment. Defendant had actual knowledge of these incidents and was deliberately indifferent to them because their response to reports were either inadequate, delayed, or nonexistent.

233. The harassment was so severe and objectively offensive that it deprived Members #1–5 and certain members of the Brandeis Center and JAFE of access to educational benefits and opportunities provided by Harvard.

234. As a direct and proximate result of Defendant's actions and inactions, Members #1–5 and certain members of the Brandeis Center and JAFE were deprived of access to educational opportunities and benefits, including the ability to receive an education in an environment free from discrimination and intimidation, the ability to fully and freely participate in all classes and campus activities without fear of discrimination and intimidation, and the loss of significant class time and group learning.

COUNT III

VIOLATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, 42 U.S.C. § 2000D

(RETALIATION)

235. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 234 as if fully set forth herein.

236. The Department of Education promulgates a regulation that provides that “[n]o recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of the Act or this part, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part.” 34 C.F.R. § 100.7(e).

237. That regulation applies once a “student ... or other individual complains formally or informally to a school about a potential civil rights violation” and aims to ensure that “individuals [are] commended when they raise concerns about compliance with the Federal civil rights laws, not punished for doing so.”¹³³

238. Members #1–5 and certain members of the Brandeis Center and JAFE are Jewish and/or of Israeli descent and, therefore, are members of a protected class within the scope of Title VI’s protections.

¹³³ Letter from Seth M. Galanter, Acting Assistant Sec’y for Civil Rts., U.S. Dep’t of Educ. to Colleague at 1 (Apr. 24, 2013), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201304.pdf>.

239. Members #1–5 and certain members of the Brandeis Center and JAFE engaged in protected activity by reporting the instances of discrimination to Harvard officials and employees as described above.

240. Defendant subjected Members #1–5 and certain members of the Brandeis Center and JAFE to material adverse actions as a result of their protected activity of reporting discrimination at Harvard. These occurred contemporaneously with, or after, reports of discrimination.

241. As a direct and proximate result of Defendant’s actions and inactions, Members #1–5 and certain members of the Brandeis Center and JAFE were deprived of access to educational opportunities and benefits, including the ability to receive an education in an environment free from discrimination and intimidation, the ability to fully and freely participate in all classes and campus activities without fear of discrimination and intimidation, and the loss of significant class time and group learning, which further impacted their academic performance.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that the Court grant the following relief:

- a. Entry of judgment against Defendant on all Counts;
- b. Injunctive relief preventing Defendant from violating Title VI going forward, including enforcement of Defendant’s policies;
- c. An award of attorneys’ fees and costs under 42 U.S.C. § 1988; and
- d. Such other and further relief as this Court may deem just and proper.

May 22, 2024

Boston, Massachusetts

Respectfully Submitted,

/s/ Rebecca Sivitz

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