

April 17, 2024

VIA EMAIL

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Re: Complaint re: Violation of Title VI of the Civil Rights Act by Pomona College

Dear Assistant Secretary Lhamon and Director Pelchat:

The Louis D. Brandeis Center for Human Rights Under Law (“Brandeis”), Anti-Defamation League (“ADL”), and the law firm of Arnold & Porter Kaye Scholer LLP, jointly submit this Title VI Complaint¹ on behalf of current and former Jewish and Israeli students at Pomona College (“Pomona” or the “College”).² Pomona is located at 333 N College Way, Claremont, CA 91711.

The hostile environment on campus forces Jewish and Israeli students to conceal their identities and precludes them from participating in Pomona’s social, educational, and extracurricular activities unless they disavow their Jewish ancestral and ethnic heritage connected to Israel. Pomona’s President, G. Gabrielle Starr (“President Starr”), and Pomona’s administration (the “Administration”) have been well aware of this ongoing problem but, despite recent laudable efforts, President Starr has been unable to address it

¹ By its terms, Title VI applies to institutions receiving federal assistance. Pomona’s students receive federal student loans. See, e.g., *Payment Plan & Educational Loan Options*, Pomona College, <https://www.pomona.edu/financial-aid/payment-plan-educational-loan-options> (last visited Apr. 17, 2024). According to the United States Department of Justice (“DOJ”), for purposes of Title VI, financial assistance includes “[g]rants and loans of Federal funds,” “[t]he grant or donation of Federal property and interests in property,” and “[a]ny Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance,” among other examples. Civ. Rights Div., U.S. Dep’t of Just., *DOJ Title VI Legal Manual*, <https://www.justice.gov/crt/book/file/1364106/dl?inline>, at Section V pp. 5–6 (last visited Apr. 17, 2024). Federal loans are but one example of the federal assistance the school receives.

² When we use the term “Jewish students” in this Complaint, we are referencing those Jewish and Israeli students who have an affinity for Israel. We use the term “affinity for Israel” to mean that the students feel a connection or kinship with Israel, as their ancestral homeland.

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“promptly and effectively,” as is required under Title VI, in part, because of the strong opposition she has experienced from pro-Hamas students and faculty (with little to no help from the Board of Trustees), coupled with the complexity of the school structure, and the unremittingly hostile environment on campus. The situation at Pomona is serious and ongoing, and we are receiving reports of new antisemitic acts of discrimination and harassment every day.

Jewish and pro-Israel students on Pomona’s campus are frightened and alone. One Pomona student—a 6’ 2” robust male student leader on campus—is transferring because the hostile environment for Jewish students has become so overwhelming. In the painful words of one Israeli Pomona student, “if there [wa]s a way to complete school and never go to campus, I would never go back to Pomona,” and another Jewish Pomona student, “I feel unsafe . . . I feel that I don’t have a place, I feel unwelcomed, and I am constantly scared of being harmed. I do not know who I can talk to because everyone seems so hostile.”

I. Introduction

Pomona is part of a larger consortium of institutions, known as “The Claremont Colleges.” The Claremont Colleges consists of five undergraduate liberal arts colleges and two graduate institutions: Claremont McKenna College, Harvey Mudd College, Pitzer College, Pomona College, and Scripps College; and Claremont Graduate University and Keck Graduate Institute.³ The Claremont Colleges share contiguous campuses in Claremont, California, approximately thirty miles from Los Angeles and covering one square mile.⁴ Although each of the schools prides itself on having its own “student body, faculty, government, curricular emphasis, culture, and mission,”⁵ the students at The Claremont Colleges “are enrolled at one institution.”⁶ Indeed, students at The Claremont Colleges not only benefit from cross-enrollment at the other undergraduate colleges of the consortium, but all of the consortium’s students enjoy and can access The Claremont Colleges’ “speakers’ series, guest lectures, art exhibits, plays and performances, as well as clubs and organizations.”⁷

³ See *Seven Institutions. Infinite Choices.*, The Claremont Colleges, <https://www.claremont.edu/> (last visited Apr. 17, 2024).

⁴ See *The Claremont Colleges*, Pomona College, <https://www.pomona.edu/about/claremont-colleges> (last visited Apr. 17, 2024).

⁵ *Seven Institutions. Infinite Choices.*, *supra* note 3.

⁶ *Id.*

⁷ *The Claremont Colleges*, *supra* note 4; *Clubs & Student Organizations*, The Claremont Colleges, <https://www.claremont.edu/campus-life/clubs-organizations/> (last visited Apr. 17, 2024).

The interrelated nature of these institutions makes it difficult for any individual president or administration to discipline students from across colleges properly. For example, “each institution reserves the right to prohibit disruptive or potentially dangerous persons from their campuses” because each of the institutions has a “right to control its own property,” but the institutions are also expected to “consult with each other” about disciplinary actions that might cover the other institutions’ properties, students, or functions.⁸ Although Jewish students at all of The Claremont Colleges institutions have experienced antisemitism and discrimination, the hostile environment has been the worst and most pervasive for Jewish and Israeli students at Pomona. President Starr has had limited authority to discipline students from the other institutions that have posed a danger to Pomona’s Jewish students, and she has even faced backlash for attempting to discipline Pomona students for what they have done on Pomona’s campus.

Pomona proudly promotes itself as having a “close-knit student body” that “is diverse in background and academic pursuits yet unified by a spirit of collaboration.”⁹ The experience for Jewish and Israeli students at Pomona who recognize as part of their identity the Jewish people’s ancestral and ethnic connection to Israel has been very different, however. These students have been subjected to discrimination, harassment, and intimidation on the basis of their Jewish ancestry and ethnic identity. They have been marginalized, isolated, and disparaged for being Jewish. For them, life on Pomona’s campus has become a hostile environment—antithetical to the ideals Pomona so proudly claims to uphold.

The poisonous atmosphere at Pomona took a turn for the worse immediately following the October 7, 2023 terrorist attack in Israel by Hamas—the worst massacre of Jews since the Holocaust—with various student groups and members of the faculty loudly supporting the murderous Hamas attacks and blaming the Israeli victims. Much of that support for Hamas, especially when voiced by the students, expressed itself in ways that contravened The Claremont Colleges Demonstration Policy (the “Policy”),¹⁰ and the

⁸ *The Claremont Colleges Policies and Procedures*, Pomona College <https://catalog.pomona.edu/content.php?catoid=46&navoid=9110> (last visited Apr. 17, 2024).

⁹ *Pomona College*, Claremont Colleges, <https://www.claremont.edu/home/pomona-college/> (last visited Apr. 17, 2024).

¹⁰ *See The Claremont Colleges Demonstration Policy*, Pomona College, <https://catalog.pomona.edu/content.php?catoid=46&navoid=9110> (last visited Apr. 17, 2024) (“Disruptive actions or demonstrations are those that restrict free movement on any of the campuses, or interfere with, or impede access to, regular activities or facilities of any of the Colleges or The Claremont Colleges Services.”) [hereinafter *Demonstration Policy*].

Administration's failure to address those violations significantly magnified the intimidating impact of the hostile atmosphere on campus. In the months following October 7, the Administration failed in its Title VI obligation to address the harassment and intimidation in a "prompt and effective" manner. Indeed, in the initial months following October 7, it did very little at all.

As the months progressed and the situation deteriorated further—with the increase in physical intimidation and physical violence, pro-Hamas students covering their faces to mask their appearance in violation of Pomona's rules, and with Jewish students applying to transfer to other schools—President Starr began taking the steps that should have been taken much sooner to address the situation. Throughout the months, she emailed the Pomona community and pleaded for civility and respect. In the new year, she attempted to hold dialogue sessions for students and faculty to find common ground. President Starr tried to work with pro-Hamas students even when they blatantly violated the Policy. President Starr enrolled in Hillel's Campus Climate Initiative, a program designed "to help college and university presidents and campus administrators counter antisemitism."¹¹ But when the pro-Hamas students' abhorrent conduct reached an all-time high and posed a threat to President Starr herself on April 5, 2024, she had no choice but to call the police to protect herself and the Pomona community at large, resulting in nineteen arrests for criminal trespass and obstruction of justice. As a result, she has faced strong opposition from students¹² and a faculty vote condemning her actions.¹³

Despite President Starr's belated efforts to offer a measure of support to the victimized Jewish students and to impose a measure of order on campus, the atmosphere on Pomona's campus is so hostile that President Starr's efforts have been met with little success. To date, she has failed to effectively rein in the harassing, discriminatory conduct of the pro-Hamas forces on campus. For example, after authorizing the arrests of the pro-Hamas students who overran her office and the administrative building on April 5, 2024,

¹¹ *Hillel Campus Climate Initiative*, Hillel International <https://www.hillel.org/campus-climate-initiative/> (last visited Apr. 17, 2024); *see also Pomona College*, Hillel International, <https://www.hillel.org/college/pomona-college/> (last visited Apr. 17, 2024).

¹² *See Aaron Matsuoka*, Opinion, *I'm calling you in, President Starr: Pomona must support academic freedom and students' right to free speech*, *The Student Life* (Apr. 13, 2024, 1:26 PM), <https://tsl.news/opinion-im-calling-you-in-president-starr-pomona-must-support-academic-freedom-and-students-right-to-free-speech/>.

¹³ *See June Hsu*, *Pomona College faculty votes to pass resolution condemning college; over 250 7C community members walkout for divestment*, *The Student Life* (Apr. 13, 2024, 5:42 PM), <https://tsl.news/pomona-college-faculty-votes-to-pass-resolution-condemning-college-over-250-7c-community-members-walkout-for-divestment/>.

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President Starr sent a mass email on April 11, 2024 to the Pomona community explaining the basis for the arrests.¹⁴ Nowhere in her email was she able to so much as mention the words “Israel,” “Palestine,” “ Hamas,” or even “the Middle East.” Rather than pronounce the truth—that Jewish and Israeli or pro-Israel students are not safe at Pomona— President Starr avoided mentioning the topic altogether, undoubtedly out of fear of unleashing a torrent of hostile vitriol.

We note that the 180-day rule employed by OCR¹⁵ compels us to bring this complaint now, rather than wait and see how the fluid situation develops, so as to comply with the deadline imposed by the 180-day rule.

Sections II and III set forth the legal foundation for this Complaint. Section IV of this Complaint presents a statement of the facts evidencing Pomona’s failure to comply with Title VI. We recognize OCR will focus on conduct occurring within the last 180 days. Section V recalls how these violations have harmed Jewish students at Pomona. Section VI outlines suggestions for remedies to bring Pomona into compliance with Title VI. Section VII requests Section 201(a) Mediation. Section VIII summarizes our conclusions.

In setting forth the instances which contribute to the hostile atmosphere on campus, we include both speech or conduct that is not protected by the First Amendment, as well as speech or conduct that is protected by the First Amendment. We understand that Pomona is a private institution, and as such, is not subject to the First Amendment. But both because OCR’s 2003 “Dear Colleague” letter extends the First Amendment’s protections to private institutions for purposes of Title VI,¹⁶ and California State legislation similarly extends the protections of the federal First Amendment to disciplinary proceedings conducted in private colleges in California,¹⁷ we treat Pomona as if the First Amendment were fully applicable on its campus.

¹⁴ See *Pomona College president addresses campus protest, arrests*, Claremont Courier (Apr. 11, 2024), <https://claremont-courier.com/latest-news/pomona-college-president-addresses-campus-protest-arrests-77438/>.

¹⁵ See Off. for Civ. Rights, U.S. Dep’t of Just., *Complaint Processing Procedures* (July 2022), <https://www2.ed.gov/about/offices/list/ocr/docs/complaints-how.pdf>, at 1.

¹⁶ See Off. for Civ. Rights, U.S. Dep’t of Educ., *Dear Colleague Letter* (July 28, 2003), <https://www2.ed.gov/about/offices/list/ocr/firstamend.html>.

¹⁷ See SB 1287 (Mar. 20, 2024).

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Even when speech is protected by the First Amendment, that speech can contribute to the hostile environment on campus.¹⁸ Under Title VI, schools remain obligated to address and remedy the hostile environment, even when it is created in whole or in part by First Amendment protected speech.¹⁹ The only difference is that, in such instances, the school is not able to limit the speech or punish the speaker. But all other remedies remain at the school's disposal. By way of example, in order to remedy the harassment, the school can engage in counter-speech, extend counseling to the victims; require attendance at mandatory tolerance training; provide enhanced security to those suffering from intimidation; and enforce time, place, and manner restrictions on any campus protests.²⁰

As we recount the episodes below, we are *not* calling for limitations of speech or discipline of speakers—as opposed to other remedies—for speech that is protected by the First Amendment.

We have not used students' names in this Complaint because the students prefer to remain anonymous—in most cases, due to fear of retaliation or being “cancelled” by other students. This fear was expressed by both current and former students. All of the students discussed in this complaint are willing and able to be interviewed or provide testimony to OCR about the hostile environment that has developed for Jewish and Israeli students at Pomona.

¹⁸ U.S. Comm. on Civ. Rights, *Campus Anti-Semitism* (Nov. 18, 2005), <https://www.usccr.gov/files/pubs/docs/081506campusantibrief07.pdf>, at 73 (to satisfy Title VI, “university leadership should set a moral example by denouncing anti-Semitic and other hate speech, while safeguarding all rights protected under the First Amendment.”).

¹⁹ For example, the First Amendment does not bar a public university from “stress[ing] the importance of an inclusive learning environment” and “declar[ing] that speech expressing hate on the basis of race, sex, religion, or sexual orientation is inconsistent with the values of the campus.” Erwin Chemerinsky & Howard Gillman, *Free Speech on Campus* 146 (2017); see also *Non-Discrimination Policy (Workplace and Student-Related Matters)*, Pomona College (Dec. 8, 2023), <https://catalog.pomona.edu/content.php?catoid=46&navoid=9096> (“[J]ust because speech is protected does not mean that it is consistent with the College’s values as a supportive and inclusive campus community.”)

²⁰ See Off. for Civ. Rights, U.S. Dep’t of Educ., Dear Colleague Letter, (Oct. 26, 2010), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>, at 2–3 [hereinafter *2010 Dear Colleague Letter*] (regardless of whether harassing speech is protected, a Title VI recipient is obligated to, in OCR’s words, “take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment, and prevent the harassment from recurring”).

II. Title VI of the Civil Rights Act Applies to Antisemitism Pursuant to Executive Order 13899 and OCR Guidance

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.* (“Title VI”) prohibits discrimination on the basis of race, color, and national origin in educational institutions that receive federal funding.²¹

This prohibition extends to antisemitism. Guidance issued by OCR and DOJ has repeatedly emphasized that Title VI covers discrimination, including harassment, against Jews on the basis of their “actual or perceived . . . shared ancestry or ethnic characteristics.”²² Such harassment includes a school’s failure to effectively address an environment that is hostile toward Jewish students. The 2023 Dear Colleague Letter²³ sets out OCR’s mandate for investigating schools, such as Pomona, where there is a hostile environment, based on shared ancestry, known to the school: “If a hostile environment based on shared ancestry existed, and the school knew or should have known of the hostile environment, OCR will evaluate whether the school met its obligation under Title VI to take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent harassment from recurring. In other words, a school violates Title VI when it fails to take adequate steps to address discriminatory harassment, such as antisemitic harassment.”²⁴

²¹ See 42 U.S.C. § 2000d *et seq.*

²² Off. for Civ. Rights, U.S. Dep’t of Educ., *Dear Colleague Letter* (May 25, 2023), <https://www2.ed.gov/about/offices/list/ocr/docs/antisemitism-dcl.pdf> at 1 [hereinafter *2023 Dear Colleague Letter*]; see also Off. for Civ. Rights, U.S. Dep’t of Educ., *Dear Colleague Letter* (Nov. 7, 2023), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-202311-discrimination-harassment-shared-ancestry.pdf>; Off. for Civ. Rights, U.S. Dep’t of Educ., *FACT SHEET: Protecting Students from Discrimination Based on Shared Ancestry or Ethnic Characteristics* (Jan. 4, 2023), <https://www2.ed.gov/about/offices/list/ocr/docs/ocr-factsheet-shared-ancestry-202301.pdf>; Off. for Civ. Rights, U.S. Dep’t of Educ., *Know Your Rights: Title VI and Religion* (Jan. 17, 2017), <https://www2.ed.gov/about/offices/list/ocr/docs/know-rights-201701-religious-disc.pdf>; 2010 *Dear Colleague Letter*; Letter from Thomas E. Perez, Asst. Att’y Gen., Civ. Rights Div., U.S. Dep’t of Just., to Russlyn H. Ali, Asst. Sec’y for Civil Rights, Off. for Civ. Rights, U.S. Dep’t of Educ., *Re: Title VI and Coverage of Religiously Identifiable Groups* (Sept. 8, 2010), https://www.justice.gov/sites/default/files/crt/legacy/2011/05/04/090810_AAG_Perez_Letter_to_Ed_OCR_Title%20VI_and_Religiously_Identifiable_Groups.pdf; Off. for Civ. Rights, U.S. Dep’t of Educ., *Dear Colleague Letter* (Sept. 13, 2004), <https://www2.ed.gov/about/offices/list/ocr/letters/religious-rights2004.pdf>.

²³ 2023 *Dear Colleague Letter*, *supra* note 22.

²⁴ *Id.* at 2.

That Title VI applies against antisemitism has not only been the view of OCR for years but also the view of both the Trump and Biden administrations. On December 11, 2019, then-President Trump issued Executive Order 13899, which mandates that Title VI be enforced “against prohibited forms of discrimination rooted in anti-Semitism.”²⁵ The Executive Order, which has been incorporated into current OCR policy guidance, further commands that Title VI should be enforced against antisemitism “*as vigorously as against all other forms of discrimination prohibited by Title VI.*”

Thereafter, in May 2023, President Biden issued The U.S. National Strategy to Counter Antisemitism (the “National Antisemitism Strategy”).²⁶ The National Antisemitism Strategy goes on to describe the plight of Jewish students:

“Jewish students . . . are targeted for derision and exclusion on college campuses, often because of their real or perceived views about the State of Israel. When Jews are targeted because of their beliefs or their identity, when Israel is singled out because of anti-Jewish hatred, that is antisemitism. And that is unacceptable.”²⁷

“On college campuses, Jewish students . . . have been derided, ostracized, and sometimes discriminated against because of their actual or perceived views on Israel.”²⁸

The National Antisemitism Strategy also highlights the need for Jewish students to be safe and free from antisemitic harassment:

“All students . . . should feel safe and free from violence, harassment and intimidation on their campuses. Far too many do not have this sense of security because of their actual or perceived views on Israel”²⁹

²⁵ Exec. Order No. 13899, 84 FR 68779, *Combatting Anti-Semitism* (Dec. 11, 2019), <https://www.govinfo.gov/content/pkg/FR-2019-12-16/pdf/2019-27217.pdf>, at Section 1; *see also* Off. for Civ. Rights, U.S. Dep’t of Educ., *Questions and Answers on Executive Order 13899 (Combatting Anti-Semitism) and OCR’s Enforcement of Title VI of the Civil Rights Act of 1964* (Jan. 19, 2021), <https://www2.ed.gov/about/offices/list/ocr/docs/qa-titleix-anti-semitism-20210119.pdf>.

²⁶ *See The U.S. National Strategy to Counter Antisemitism*, The White House (May 2023), <https://www.whitehouse.gov/wp-content/uploads/2023/05/U.S.-National-Strategy-to-Counter-Antisemitism.pdf>.

²⁷ *Id.* at 9.

²⁸ *Id.* at 40.

²⁹ *Id.*

To assist in determining what constitutes prohibited antisemitism under Title VI, Executive Order 13899 expressly requires that executive departments and agencies charged with enforcing Title VI consider the Working Definition of Anti-Semitism (the “IHRA Definition”) adopted by the International Holocaust Remembrance Alliance (“IHRA”), and the “Contemporary Examples of Anti-Semitism.” Here is a list of some of the relevant examples:

1. *Calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion.*
2. *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.*
3. *Holding Jews collectively responsible for the actions of the State of Israel.*
4. *Denial to Jews of opportunities or services available to others.*
5. *Drawing comparisons of contemporary Israeli policy to that of the Nazis.*

Schools ignore antisemitism on campus at their peril. When the harassing conduct or hostile environment is “sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the services, activities, or privileges provided by a school,” that school must “take *prompt and effective* steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent harassment from recurring.”³⁰ Failure to do so puts at risk the school’s federal funding.

Finally, these federal protections are supplemented by Pomona’s policies. At Pomona, harassment “refers to unwelcome behavior that is offensive, fails to respect the rights of others and, in the context of employment with the College, disrupts their emotional tranquility in the workplace, interferes with their personal sense of well-being, or affects their ability to perform their job as usual.”³¹ Pomona explicitly recognizes antisemitism as a form of intersectional discrimination or harassment “based on religion, shared ancestry, and/or national origin,” which can manifest through “denying an individual access to or refusing to allow an individual to participate in any program sponsored or hosted by the College.”³² Pomona recognizes that

³⁰ 2023 Dear Colleague Letter, *supra* note 22, at 2 (emphasis added).

³¹ See *Discrimination and Harassment Investigation and Response Procedures*, Pomona College (Oct. 2022), <https://www.pomona.edu/discrimination-and-harassment-investigation-and-response-procedures>.

³² *Non-Discrimination Policy*, *supra* note 19.

certain types of speech do not enjoy First Amendment protections, including: “harassment,” “[s]peech that incites imminent lawless action,” and “[s]peech that materially limits the College’s educational function,” among other examples.³³ The Claremont Colleges, which includes Pomona, also prohibits certain types of demonstrations, including non-peaceful actions or demonstrations (“those that endanger or injure, or threaten to endanger or injure, any person, or that damage or threaten to damage property”) and disruptive actions or demonstrations (“those that restrict free movement on any of the campuses, or interfere with, or impede access to, regular activities or facilities of any of the Colleges or The Claremont Colleges Services”).³⁴

As detailed in this Complaint, Jewish students are routinely targeted for antisemitic discrimination, harassment, and intimidation, without consequences for the perpetrators. President Starr has been unable to enforce Title VI or Pomona’s policies to prevent such conduct or punish the perpetrators because of the overwhelmingly challenging and hostile campus over which she presides.

III. Antisemitism and Jewish Identity

A survey released in March 2024 by ADL and Hillel International found that 73% of Jewish college students had experienced or witnessed antisemitism since the start of the school year.³⁵ The same survey found that more than half of Jewish university students feel physically unsafe on campus because of their Jewish identity.³⁶ A majority of all students—Jewish and non-Jewish—feel that their university has not done enough to address anti-Jewish prejudice on campus. According to another recent survey, more than one-third of Jewish college students have felt compelled to conceal their Jewish identity on campus.³⁷ With increasing frequency, Jewish students on campuses across the country are being targeted due to the Jewish people’s connection to Israel. Students report being shunned, harassed, and marginalized as “Zionists.”

³³ *2023-2024 Pomona College Student Handbook*, Pomona College, <https://catalog.pomona.edu/content.php?catoid=46&navoid=9121>, at Article IV: Speech Code (last visited Apr. 17, 2024).

³⁴ *Demonstration Policy*, *supra* note 10.

³⁵ *See Campus Antisemitism: A Study of Campus Climate Before and After the Hamas Terrorist Attacks*, ADL (Nov. 29, 2023), <https://www.adl.org/resources/report/campus-antisemitism-study-campus-climate-and-after-hamas-terrorist-attacks>.

³⁶ *See id.*

³⁷ *See More Than One-Third of Jewish College Students Are Forced to Hide Their Jewish Identity, New Hillel Poll Finds*, Hillel International (Nov. 20, 2023), <https://www.hillel.org/more-than-one-third-of-jewish-college-students-are-hiding-their-jewish-identity-on-campus-new-hillel-international-poll-finds/>.

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As illustrated by ADL’s Pyramid of Hate,³⁸ shunning and exclusion do not occur in a vacuum. When biased attitudes are not addressed or challenged, they frequently escalate to biased and discriminatory conduct. As OCR recognizes, Jews share more than a common faith: they are a people with a shared history and heritage deeply rooted in the land of Israel.³⁹ Indeed, according to a PEW survey, eight out of ten Jews say that caring about Israel is an essential or important part of what being Jewish means to them.⁴⁰ Jewish people’s affinity for Israel is not a mere viewpoint or political opinion. For most Jews, Zionism represents their Jewish ancestry; namely, the historic reality that the Jewish people originated in ancient Israel. For the majority of Jews, therefore, this ancestral connection to Israel (*i.e.*, Zionism) represents an integral component of their Jewish identity.

IV. Statement of Facts

This section demonstrates that the conduct within the past 180 days is part of a pattern of antisemitism and hostility toward Jewish and Israeli students at Pomona.

In the months that followed October 7, 2023, pro-Hamas students, faculty, and administrators engaged in discriminatory conduct against Jewish and Israeli students in violation of the Policy, without consequence.

1. October 2023

In the aftermath of October 7, and throughout the Fall 2023 semester, students’ Israeli flags were taken down from their doors in Walker Hall at Pomona without their knowledge or consent, and one residential advisor’s Israeli flag was removed from the “Meet your RA” board at the Oldenborg Center at Pomona, a residence hall, dining hall, and administrative center dedicated to celebrating the diversity of languages and international relations.⁴¹ These violations of the College’s policies⁴² were reported to the

³⁸ See *Pyramid of Hate*, ADL (2021), https://www.adl.org/sites/default/files/pyramid-of-hate-web-english_1.pdf.

³⁹ See 2023 *Dear Colleague Letter*, *supra* note 22.

⁴⁰ See 7. *U.S. Jews’ connections with and attitudes toward Israel*, Pew Rsch. Center (May 11, 2021), <https://www.pewresearch.org/religion/2021/05/11/u-s-jews-connections-with-and-attitudes-toward-israel/>.

⁴¹ *Oldenborg Center for Modern Languages and International Relations*, Pomona College <https://www.pomona.edu/administration/oldenborg-center> (last visited Apr. 17, 2024).

⁴² *Hate Crimes and Bias-Incident Protocol*, Pomona College <https://catalog.pomona.edu/content.php?catoid=46&navoid=9111> (last visited Apr. 17, 2024) (“Bias-related incidents are expressions of hostility against another individual (or group) because of the other person’s (or group’s) . . . national origin.”).

Administration, but no disciplinary action was ever taken against the perpetrators. Importantly, other countries' flags around the dormitories were not ripped down.⁴³

On **October 20, 2023**, SJP and JVP held a rally at Pomona's Smith Campus Center which resulted in multiple incidents of physical violence and intimidation in violation of the Policy (prohibiting "actions or demonstrations . . . that endanger or injure, or threaten to endanger or injure, any person, or that damage or threaten to damage property")⁴⁴ and Pomona's Non-Discrimination Policy (prohibiting harassment, including "intimidation" or "any physical interference with a student's normal academics or extracurricular movement which is aimed at an individual or group because of their Legally Protected Characteristic(s)").⁴⁵ At this rally, students gathered for a vigil to honor the Hamas terrorists responsible for the carnage of October 7. At least fifteen student organizations helped create the display. In addition to fresh flowers, hand-written notes, and teddy bears left at the fountain, a printed poster paid homage to "THE INSURGENTS WHO HAVE DIED FOR THE LIBERATION OF PALESTINE." Pomona permitted this shrine to Hamas to remain intact for four calendar days before removing it, despite the fact that the Smith Campus Center's fountain is not an approved place on Pomona's campus to hang flyers, signs, or posters.⁴⁶

⁴³ IHRA notes that denying the Jewish people their right to self-determination is a contemporary example of antisemitism.

⁴⁴ *Demonstration Policy*, *supra* note 10.

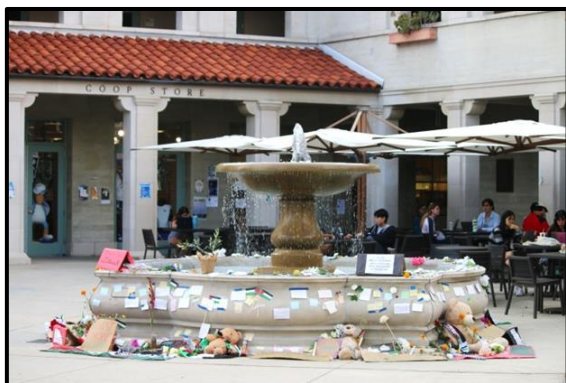
⁴⁵ *Non-Discrimination Policy*, *supra* note 19.

⁴⁶ See *Poster and Banner Approval Policy*, Pomona College, <https://catalog.pomona.edu/content.php?catoid=46&navoid=9110> (last visited Apr. 17, 2024).

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The shrine at Pomona College honoring the Hamas terrorists

During the same time as the rally, two Jewish students and the Executive Director of Hillel were hanging posters with images of Israeli and other hostages kidnapped by Hamas. These posters were previously approved by the Administration. The Jewish students and the Executive Director of Hillel were careful not to cover or remove other posters that were hanging around Pomona’s campus, including flyers calling for “intifada” (violence against Israelis and Jews), condemning President Starr for spreading a “Zionist narrative” (that the terrorist attacks of October 7 were, in fact, terrorist attacks), and providing QR codes to donate money to “Fauda” (meaning “chaos” in Arabic or, a militant group of anarchist resistance fighters) in Gaza.

When approximately forty or fifty SJP and JVP rally attendees—all of whom were wearing masks to conceal their identities—noticed the Jewish students and the Executive Director of Hillel putting up the posters, they approached them, surrounded them, physically stood in front of them to prevent them from hanging up the posters, and refused to move. The SJP and JVP students then trailed the Jewish students and the Jewish staff

member, obstructed their paths, stepped on one of the Jewish students' feet, verbally harassed and yelled at them (accusing them of supporting genocide and chanting antisemitic slogans such as, "from the river to the sea, Palestine will be free"), ripped down the posters they had put up, and tore up at least three-hundred of their pre-approved flyers.⁴⁷ As the students ripped down images of innocent hostages, the Executive Director of Hillel calmly told the protestors "excuse me, that is approved, you are not allowed to remove that flyer." One angry SJP or JVP student responded, "you can dig it out of the trash where it belongs."

The Jewish students and the Executive Director of Hillel subsequently filed reports with the Administration, but Pomona never took any disciplinary action against the offenders. The Jewish students and the staff member were told that, because their assailants were masked and it would be impossible to identify them, Pomona could not take any action. Worse yet, campus security refused to review video footage one of the Jewish students had taken of the incident. Jewish students attempted to put up another two-hundred and fifty flyers around Pomona's campus later that afternoon, but an unidentified student physically intimidated and obstructed the path of the Jewish students attempting to hang these posters, ripped their posters down, and confronted the Jewish students. Within two hours, most of the flyers were taken down entirely.

Later that same day, a Jewish student was passing by the rally on his way to buy some yogurt from the campus store, and he had his phone out as he was walking. A female SJP or JVP supporter accused the Jewish student of recording the rally, and even though he denied that he was recording, she suddenly and aggressively pushed him into a wall. Two other SJP and JVP members—at least one of whom was much bigger and taller than the Jewish student—then followed this same Jewish student into the campus store and questioned him in an intimidating manner about why he was there. Despite the tensions on campus, campus security was not present at the October 20, 2023 rally and was nowhere to be found during this incident. The Jewish student was, therefore, unable to report the incident to police as it happened. The student later filed a report with campus security but was unable to identify the woman or the other individuals who had accosted him because all the rally attendees were wearing black clothing, with most attendees also wearing black face masks to hide their identities. Since this assault, this Jewish student has dealt with ongoing psychological trauma, including nightmares and bouts of anxiety.

⁴⁷ IHRA notes that calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion, and accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group are contemporary examples of antisemitism.

It took President Starr five days to respond to these incidents. President Starr released a statement to “share more information regarding [the administration’s] approach” to demonstrations and protests “related to the Middle East and its conflicts.”⁴⁸ The statement broadly acknowledged that “[b]ullying and intimidation are against our policies and counter to our values” but failed to directly address and condemn the harassment and intimidation the Jewish students and the Executive Director of Hillel experienced on October 20.⁴⁹ Nor did President Starr address the use of physical violence against the Jewish student in the campus store.

On **October 23, 2023**,⁵⁰ a retired faculty member and the faculty advisor to SJP participated in an event on Pomona’s campus. There was no security presence at this event. As a panelist, he defined Zionism as “Jewish Supremacy” and made it clear that any Jew who does not deplore Zionism should be considered as evil as a white supremacist. Jewish students who attended this event—and even guest speakers at the event—reported that the event was incredibly dangerous and the retired faculty member incited violence against Jews and pro-Israel individuals with his comments. One Jewish guest speaker stated she “has never been so scared in her life.” Toward the end of the event, the Executive Director of Hillel was baselessly slandered as being Islamophobic, and a student revealed her name and position on campus to the entire audience.

On **October 25, 2023**, SJP participated in the national walkout “in support of Palestine” and joined a rally which resulted in a violation of the Policy (prohibiting non-peaceful actions that “threaten to endanger or injure, any person” and disruptive actions that “interfere with . . . “regular activities or facilities of any of the Colleges”). The group of more than three hundred and seventy students marched all the way from Scripps College’s campus to Alexander Hall (the main administrative building at Pomona). A significant number of the three hundred and seventy protesters then entered the building and demanded divestment, disrupting Pomona’s Treasurer and other administrative employees at work.⁵¹ At least one Jewish student was forced to hide in the basement of a building during this time. During the walkout, the mob of students threatened escalatory

⁴⁸ *On Protest in a Time of Crisis*, Off. of President Gabrielle Starr (Oct. 25, 2023), <https://www.pomona.edu/administration/president/statements/posts/protest-time-crisis>.

⁴⁹ *Id.*

⁵⁰ While these statements may be protected speech, the fact that they were permitted to stand—without any counter-speech or education alerting the campus community to its hostile, antisemitic nature—contributed to and facilitated the hostile environment on campus for Jewish students, increasing their sense of isolation and enabling their marginalization.

⁵¹ *Demonstration Policy*, *supra* note 10.

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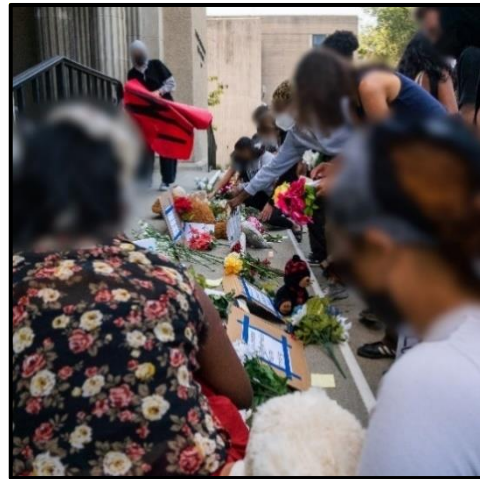
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action and more protests should Pomona fail to divest from “Israeli and Israel-affiliated companies.”⁵² Campus Security was present during the October 25, 2023 walkout.

On **October 30, 2023**,⁵³ one hundred and thirteen students violated the Policy prohibiting disruptive actions or demonstration, by sitting and/or picketing in front of the Little Bridges auditorium at Pomona for two hours, shouting “from the river to the Sea, Palestine will be free!,” “Stop the violence stop the hate! Israel is an apartheid state!,” and other antisemitic chants. As demonstrated by the photos below, the students blocked access to the building. In so doing, and by protesting at a loud volume, they forced President Starr to cancel her Family Weekend Address during this time. These students also reconstructed the shrine to Hamas that Pomona took down on the steps of Little Bridges with fresh flowers, hand-written letters, and teddy bears. Pomona cleared the vigil ninety minutes after the sit-in.

⁵² @Claremont.Undercurrents, Instagram (Oct. 26, 2023), https://www.instagram.com/claremont.undercurrents/p/Cy4Diu_S-S5/?img_index=1.

⁵³ *113 students shut down Pomona Family Weekend Address, demanding divestment from Israel*, Undercurrents (Nov. 13, 2023), <https://www.claremontundercurrents.com/113-students-shut-down-pomona-family-weekend-address-demanding-divestment-from-israel/>.



Images of students disrupting Family Weekend 2023

2. November 2023

On **November 3, 2023**,⁵⁴ more than one hundred student protesters arrived at Alexander Hall, the administrative building. Once again, disrupted and entered the building during business hours and while employees were present, protesting, and eventually made their way to the Pomona Treasurer's office, again calling for divestment and promising further escalation and protests, in violation of the Policy (prohibiting non-

⁵⁴ @Claremont.Undercurrents, Instagram (Nov. 3, 2023), https://www.instagram.com/p/CzNS5wALp-P/?igsh=MTU0dm1qNzZxNThtcw%3D%3D&img_index=1.

peaceful actions that “interfere with . . . “regular activities or facilities of any of the Colleges”). The students announced, “We are here today on behalf of the 5C community, to reiterate that Pomona College must immediately divest from the ethnic cleansing and forced displacement of the Palestinian people.” After, more than one hundred and twenty-six students left the building and then picketed at the intersection outside of Alexander Hall at Pomona, forcing campus security and students in safety vests to divert traffic from the intersection from two directions.

On **November 8, 2023**, President Starr again attempted to reason with the Pomona community.⁵⁵ She wrote: “[p]luralism requires dissent, but cannot tolerate discrimination,” and she highlighted Pomona’s Discrimination and Harassment Investigation and Response Procedures and President Biden’s National Strategy to Counter Antisemitism (and a forthcoming anti-Islamophobia strategy). She also cautioned that “[r]eports of behavior that violates the student code, our demonstration policy, or our policies prohibiting pervasive harassment and discrimination on the basis of protected status, will be investigated and addressed through our established judicial processes.”⁵⁶ She noted that “[s]tudents and other participants in demonstrations may be asked to temporarily remove masks so that they can be recognized if potential conduct or demonstration policy violations appear to be taking place.”⁵⁷ President Starr’s message fell on deaf ears.

On **November 9, 2023**, SJP hosted a “day of action” that not only violated the Policy against disruptive demonstrations but also resulted in prohibited harassment that was so severe and/or pervasive as to interfere with the ability of Jewish and Israeli students to participate fully in Pomona’s educational and extracurricular opportunities. The “day of action” included an 11:00 AM teach-in about divestment at The Coop. More than one hundred and eighty students arrived at Alexander Hall at 7:00 AM, blocking the building’s entrances to prevent Pomona administrators from entering and doing “business as usual.” Dozens of students sat in front of the building’s five main entrances, while others picketed around them, holding signs and posters calling for divestment. At one of the entrances to Alexander Hall, students displayed a poster that read, “Pomona Divest From Genocide.” Campus security officers arrived at the scene, instructing students to move from the entrances, and the officers circled the building to monitor students, but they did not engage further. During the first hour of the sit-in, administrators and staff could not enter the building because of the students congregated. Around 8:30 AM, campus security was able

⁵⁵ *Pluralism, Dissent and Discrimination*, Off. of President Gabrielle Starr (Nov. 8, 2023), <https://www.pomona.edu/administration/president/statements/posts/pluralism-dissent-and-discrimination>.

⁵⁶ *Id.*

⁵⁷ *Id.*

to escort staff into the building through a basement entrance at the front of the building. The officers also opened two side doors, but the pro-Hamas protesters moved to block these doors as soon as administrators were let in. At 9:00 AM, the students organized into a group and circled the building. They picketed until approximately 10:30 AM, and at 11 AM, more students arrived for the scheduled teach-in on Marston Quad. When the teach-in concluded at noon, more than four hundred and twenty students had gathered, all of whom were instructed not to “engage with Zionists” and to keep their masks on so they could not be identified (in defiance of President Starr’s most recent communication). Some students left after the teach-in, but most stayed to form a picket around and through Alexander Hall until 1:00 PM. Most Jewish students stayed in their dorms or left campus entirely on this day—thereby missing their classes—because they were so frightened and intimidated by these events.



More than 420 students gather for a “day of action”

On **November 17, 2023**,⁵⁸ student leaders of Haverim became aware through an online antisemitism reporting system and at least one other source that the leadership of the Claremont Student Workers Alliance (“CSWA”)—an organization comprised of more than one hundred students—combed through its Instagram account and blocked any students with “Zionist sounding name[s]” from viewing or following its page.⁵⁹ Importantly, the only place for students to learn about the CSWA’s events is through social media. Haverim students informed several Pomona Deans via email, who responded and promised to investigate the allegations.⁶⁰ Haverim followed up and offered the name of the student who reported CSWA for more information, but the administrators never

⁵⁸ There is no First Amendment protection for excluding people with Zionist-sounding names from access to an otherwise public Instagram account.

⁵⁹ Exhibit A.

⁶⁰ *See id.*

connected with the student and/or investigated further, and CSWA has not faced any consequences for discriminating against Jewish students.⁶¹

On **November 29, 2023**, SJP held a “Shut it Down! For Palestine!” event with a number of other student groups at Pomona, including JVP, CSWA, and 5cPrison Abolition in violation of the Policy. The event was hosted in a central part of Pomona’s campus while classes were in session. During the event, a Pomona lecturer who was involved with the protest and brought Pomona students to the event engaged in trespass and/or disturbing the peace, according to reports.⁶² This individual was subsequently arrested by the Claremont Police Department.⁶³ Instead of investigating the merits of the arrest, the Intercollegiate Department of Chicana-Latina Studies at The Claremont Colleges immediately released a statement objecting to the arrest as “racial profiling” and an attempt to suppress the “Free Palestine” movement.⁶⁴

3. *December 2023*

On **December 1, 2023**, President Starr pleaded with the Pomona community to “be united in upholding human dignity and compassion while rejecting all forms of hate.”⁶⁵ President Starr informed the Pomona community that “the College is adding shared ancestry as a category in our harassment policies to clarify the protections available for students, faculty and staff. In addition, in our updated nondiscrimination policies, the College calls attention to antisemitism and Islamophobia as forms of intersectional discrimination based on religion, shared ancestry and or/national origin.”⁶⁶ Specifically, President Starr condemned “making dehumanizing or demonizing allegations about Jews or holding Jews collectively responsible for actions of the state of Israel.”⁶⁷

On **December 5, 2023**, approximately eighty Pomona students screamed at President Starr in the middle of her speech during a senior class dinner in violation of the Policy prohibiting disruptive demonstrations. The students then further disrupted the

⁶¹ *See id.*; IHRA notes that denial to Jews of opportunities or services available to others and holding Jews collectively responsible for actions of the state of Israel are contemporary examples of antisemitism.

⁶² *See* Jenna McMurtry, Mariana Duran & Reia Li, *Claremont Police Department arrests Pomona faculty member on campus*, *The Student Life* (Dec. 1, 2023), <https://tsl.news/pomona-faculty-arrest/>.

⁶³ *See id.*

⁶⁴ @idcls_claremont, Instagram (Dec. 1, 2023), https://www.instagram.com/p/C0TLhsAg_yj/?hl=en.

⁶⁵ *Update on Addressing Antisemitism, Islamophobia and Shared Ancestry Discrimination*, Off. of President Gabrielle Starr (Dec. 1, 2023), <https://www.pomona.edu/administration/president/statements/posts/update-addressing-antisemitism-islamophobia-and-shared-ancestry-discrimination>.

⁶⁶ *Id.*

⁶⁷ *Id.*

speech by shouting that Pomona was supporting genocide by failing to divest from Israeli or Israel-affiliated companies.⁶⁸

On **December 8, 2023**, more than fifty demonstrators interrupted a private Pomona Admissions Office event organized for high school students in Estella Laboratory on Pomona's campus in violation of the Policy.⁶⁹ The protesters read a statement, held up red-painted hands—a symbol of violent antisemitism recalling the brutal slaughter of two IDF reservists by an angry mob in the West Bank in 2000—and disrupted an admissions panel.⁷⁰ One of the admissions counselors asked the protesters why they were wearing masks. Shortly thereafter, Claremont Undercurrents (“a student publication dedicated to documenting and amplifying grassroots organizing by 5C community members”⁷¹) published the name of that admissions counselor on social media and registered his email address for pornographic and other disturbing websites in a clear attempt to ruin his professional reputation. President Starr noted in her email the following day, on **December 9, 2023**, “[t]his action was clearly designed to punish the visitor to our campus for their inquiry, while sending a message to others who would engage in speech that was not in strict conformity with the protesters’ goal.”⁷² President Starr condemned this cyberbullying and vowed to investigate this incident of doxing.

Also on **December 8, 2023**, SJP, JVP, CSWA, and 5cPrisonAbolition organized dozens of students to block Frary Dining Hall, where “Harry Potter Dinner”—an annual Pomona tradition—was taking place, again in violation of the Policy against disruptive demonstrations. These students shut down the Dining Hall from the opening of the dinner until the Dining Hall was scheduled to close. When a student tried to move past the demonstrators to attend Harry Potter Dinner, the demonstrators blocked and grabbed him.⁷³ According to President Starr, this incident was recorded on video. This disruptive blockade

⁶⁸ See @claremont.undercurrents & @pomonadivestapartheid, Instagram (Dec. 6, 2023), https://www.instagram.com/p/C0gN1OAUWR7/?utm_source=ig_web_copy_link&igshid=MzRIODBiNWF1ZA%3D%3D&img_index=1.

⁶⁹ *Incidents on our Campus*, Off. of President Gabrielle Starr (Dec. 9, 2023); <https://www.pomona.edu/administration/president/statements/posts/incidents-our-campus>.

⁷⁰ See Sarah Rumpf-Whitten, *Pro-Palestinian protesters’ painted red hands a ‘symbol’ rooted in ‘craze to see blood’: expert*, Fox News (Apr. 9, 2024), <https://www.foxnews.com/world/pro-palestinian-protesters-painted-red-hands-symbol-rooted-craze-see-blood-expert>. IHRA notes that calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion is a contemporary example of antisemitism.

⁷¹ *About Undercurrents*, Claremont Undercurrents, <https://www.claremontundercurrents.com/about/> (last visited Apr. 17, 2024).

⁷² See *supra* note 69.

⁷³ See *id.*

resulted in physical violence and prevented students from enjoying what should have been a special dinner and tradition on Pomona's campus. Harry Potter Dinner was canceled.⁷⁴ Despite the frightening events that transpired at Harry Potter Dinner and the antisemitic motivation at boycotting the Pomona tradition, however, the next day, President Starr acknowledged the "hundreds of pounds of food going to waste" at Harry Potter dinner rather than the antisemitism that pervaded the prior evening.⁷⁵ Student protesters were outraged by President Starr's email.⁷⁶

President Starr concluded a very challenging semester with a message to the Pomona community on **December 22, 2023**. She wrote: "it is crucial that we remain committed to intellectual engagement and mutual respect," and she expressed her commitment to "finding common ground" in the new year.⁷⁷

Jewish and Israeli students and faculty returned to Pomona in 2024 hopeful that the antisemitism and anti-Israel sentiment that had marred their fall semesters would dissipate. Indeed, President Starr even attempted to create opportunities for dialogue.⁷⁸ Unfortunately, the situation at Pomona has only worsened since the start of the new year.

4. *March 2024*

At the end of **March 2024**, dozens of masked students harassed tour groups while tour guides led prospective students through Pomona's campus in violation of the Policy. As the tour groups proceeded through Pomona's "free speech zone," members of SJP and other anti-Israel organizations left that designated area, surrounded and menaced the tour groups, yelled at them about "genocide" and "divestment" through bullhorns, and drowned out the tour guides' attempts to conduct their tours. This happened three times during the prospective students' visit: once on the way into an admissions information session, again as the groups were coming out of the information session, and one final time on Pomona's main quad. One prospective student was so devastated and traumatized by this harassing

⁷⁴ See Dec. 8, 2023 email from Executive Chef Travis Ellis to Pomona College students, available at https://docs.google.com/document/d/1bS7UDLIYttz_2Vm0oeToU-ws6EuvJzEuNGYzy_KQri/edit.

⁷⁵ *Supra* note 69.

⁷⁶ See Annabelle Ink, *Starr receives criticism after response to Dec. 8 student demonstrations*, The Student Life (Dec. 19, 2023, 3:33 PM), <https://tsl.news/starr-receives-criticism-after-response-to-dec-8-student-demonstrations/>.

⁷⁷ *2023 Year-end Message from President Starr*, Off. of President Gabrielle Starr (Dec. 22, 2023), <https://www.pomona.edu/administration/president/statements/posts/2023-year-end-message-president-starr>.

⁷⁸ *An Invitation to Dialogue*, Off. of President Gabrielle Starr (Jan. 19, 2024), <https://www.pomona.edu/administration/president/statements/posts/invitation-dialogue>.

conduct that she started to tremble and sob, and she and her family left the tour early. This prospective student and her family heard Pomona’s message loud and clear: Jewish families and Jewish students are not welcome at Pomona. Neither the Administration nor Pomona’s admissions office contacted the prospective families who had registered for tours that day to apologize or explain the protesters’ behavior.

The same day, SJP and other organizations arranged an “apartheid wall” at Pomona’s Smith Campus Center and completely took over a lawn that is usually used by all students to relax and study, in violation of the Policy (prohibiting “[d]isruptive actions . . . that restrict free movement on any of the campuses, or interfere with, or impede access to, regular activities or facilities of any of The Colleges”).⁷⁹ The students remained there—occupying this communal campus space—well into the afternoon of **March 29, 2024**.



SJP’s “Apartheid Wall” on Pomona’s Campus

5. *April 2024*

On **April 3, 2024**, President Starr finally acknowledged the disruptive conduct on Pomona’s campus.⁸⁰ She wrote: “we uphold the right to protest in line with the

⁷⁹ IHRA notes that 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 is a contemporary example of antisemitism.

⁸⁰ *Disruptive Actions and our Community*, Off. of President Gabrielle Starr (Apr. 3, 2024), <https://www.pomona.edu/administration/president/statements/posts/disruptive-actions-and-our-community>.

demonstration policy shared across The Claremont Colleges,” specifically addressing the “masked participants” who had harassed tour groups with “amplifying devices.”⁸¹ She promised that “[v]iolations [of the Student Code] will result in judicial proceedings under our established policies. In addition, individuals who refuse to provide identification or to stop disrupting events or tours when directed to by Campus Safety or a campus administrator will be asked to leave campus immediately.”⁸² President Starr missed an opportunity, however, to also condemn the disruptive nature of the “Apartheid Wall.”

Tensions reached an all-time high on **April 5, 2024** when student protests led to arrests and interim suspensions of students. In the early morning, Pomona campus staff attempted to remove signs and other materials protesters had put up on the Smith Campus Center lawn. The masked individuals, however—ignoring President Starr’s prior messaging to the community—verbally harassed campus staff for more than two hours (including addressing a campus administrator with an anti-Black racial slur), refused to remove their signs, and refused to identify themselves for administrators. In protest, demonstrators then stormed Alexander Hall and invaded President Starr’s office.⁸³ President Starr ordered the demonstrators to leave or face suspension or arrest. These students—many of them masked—occupied President Starr’s office and refused to leave. Terrified for her safety,⁸⁴ President Starr had no choice but to call the police. Claremont police officers responded to the scene in riot gear and ultimately arrested nineteen people for trespassing and obstruction of justice, according to reports.⁸⁵

During this time, President Starr emailed the Pomona student body to address the occupation of the Smith Campus Center lawn and her office. She wrote: “[t]his occupation was against our policies, but as we have expressed in the past, we work with students who are exercising their right to protest unless that protest impedes on the rights of others.” President Starr was justly horrified by the protestors’ harassment of campus security, use of a racial slur, and the events that unfolded. But she did not once mention antisemitism

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Masked Protesters & Escalating Incidents on Campus*, Pomona College, <https://www.pomona.edu/campus-incident> (last visited Apr. 17, 2024); *see also* @jewishbreakingnews, Instagram (Apr. 7, 2024), <https://www.instagram.com/reel/C5eysyqO92x/?igsh=MWNva2docnBtYjl5cA==>.

⁸⁴ @sfmcquire79, X (Apr. 6, 2024, 9:39 AM), <https://twitter.com/sfmcquire79/status/1776605559858356612>.

⁸⁵ *See* Anastassia Olmos & Karla Rendon, *19 people arrested during protest at Pomona College* (Apr. 6, 2024, 7:46 PM), <https://www.nbclosangeles.com/news/local/19-people-arrested-during-protest-at-pomona-college/3381802/>.

or condemn the true motivation behind the incident itself because the hostility was so severe. She also warned:

Any participants in today's events on the SCC lawn or in Alexander Hall, who turn out to be Pomona students, are subject to immediate suspension. Students from the other Claremont Colleges will be banned from Pomona's campus and subject to discipline on their own campuses. All individual participants not part of The Claremont Colleges community are hereby banned from campus immediately.

Less than one week later, on **April 11, 2024**, more than two hundred and fifty protesters gathered outside of the Honnold/Mudd Library wearing face masks, sunglasses, and other face coverings to avoid being identified, in violation of President Starr's directive to the Pomona community.⁸⁶ Some students banged on pots and pans, while others held up signs that said "stop funding genocide" or "stop the repression of pro-Palestinian voice." Protestors—students and faculty alike—screamed "5C students you can't hide, time to walkout for Palestine." Some students "carried photo cutouts of [President Starr] and Pomona's Board of Trustees members." One student said of President Starr, "Black people like Starr are not one of us, they are not with us, they are not our community," and others called President Starr a "race traitor" for calling the police and suspending the students that threatened her safety on April 5.⁸⁷ One protester who spoke with the press said, "I can't focus on anything but rage." This rally ended in a disruptive "sit-in" in front of Alexander Hall, which blocked the avenue for at least thirty-three minutes, and continued protests through the other Claremont Colleges' campuses, as well.

⁸⁶ See *supra* note 80 ("The disruptive behavior on our campus has also taken place while participants have masked their identity. While we understand that students may fear doxing for expressing their beliefs, refusing to provide identification when asked is unacceptable, and **we will not permit it.**" (emphasis added)).

⁸⁷ See *supra* note 13.



Images from the April 11, 2024 protest

The same day, on **April 11, 2024**, Pomona’s faculty voted to pass a resolution condemning the college and in support of the students who were arrested on April 5. These faculty members criticized the college’s actions and demanded that “the College immediately drop criminal charges and reverse the suspensions and all related consequences against student protesters for their actions of civil disobedience.”⁸⁸ As of last week, campus safety officers were still stationed outside of Alexander Hall protecting President Starr’s office.⁸⁹

V. How the Above Incidents Have Negatively Impacted Pomona’s Jewish Students

As noted above, conduct or speech creates a “hostile environment” for purposes of Title VI when it “is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the services, activities, or privileges provided by a school.”⁹⁰ The discriminatory speech or conduct outlined above has created a hostile environment for Jewish students at Pomona.

The incidents have had the net effect of promoting the marginalization and alienation of Jewish students in many ways. Jewish students have suffered from physical violence⁹¹ and threats of physical violence on Pomona’s campus. Jewish students have

⁸⁸ *See id.*

⁸⁹ Jaweed Kaleem & Caroline Petrow-Cohen, “I can’t focus on anything but rage.” *Pro-Palestinian protests roil elite Pomona College*, L.A. Times (Apr. 12, 2024, 3:00 AM PT), <https://www.latimes.com/california/story/2024-04-12/pomona-college-palestine-gaza-activism>.

⁹⁰ 2023 *Dear Colleague Letter*, *supra* note 22.

⁹¹ *See, e.g., supra* at 12–15 (incidents dated October 20, 2023).

been shouted at and have had to pretend to ignore the verbal blows that buffeted them.⁹² Some Jewish students have transferred to other schools;⁹³ others have tried to study abroad or study remotely since October 7.⁹⁴ Others have had to refrain from participating in certain educational and/or extracurricular activities, including attending certain dining halls or cafés, areas on campus, or events. For yet others, it has meant seeking mental health counseling for the trauma they have endured.⁹⁵ Prospective and admitted students have decided not to apply or matriculate at Pomona because of the intimidation they experienced while visiting the campus.⁹⁶ The harassment, marginalization, alienation, and exclusion of Jewish and Israeli students at Pomona have become so bad, they are inescapable.

VI. Suggested Remedies

In light of Pomona's clear violations of Title VI, we respectfully request that OCR require Pomona to take the following administrative and restorative steps to come into compliance with Title VI:

1. Take the necessary steps to ensure the Pomona community is able to understand and recognize the types of antisemitic discrimination confronting Jewish students on campus, including those forms that involve Jewish shared ancestry connected to Israel, and how contemporary antisemitism manifests. To do so, Pomona should: (i) incorporate the IHRA working definition of antisemitism, including its guiding examples, into its campus policies concerning discrimination; and (ii) provide mandatory antisemitism training to Pomona's administrators, faculty, students, and staff on antisemitism, the IHRA definition, and new/enhanced College policies related to harassment and discrimination.
2. Pomona should also conduct an investigation into its administrative offices and: (i) determine the extent of any explicit or implicit institutional or personnel bias directed toward Jewish students and causes; and (ii) implement policies and procedures to ensure that such bias is eradicated, and that all Jewish students are fully protected by these offices. The relevant offices should be instructed that Jewish students who define their Jewish identity as including the Jewish people's ancestral and ethnic connection to Israel as protected—no more and no less—as all other protected classes.

⁹² See, e.g., *supra* at 18–19, 22–23 (incidents dated November 9, 2023, March 2024).

⁹³ See, e.g., *supra* at 2.

⁹⁴ See *id.*

⁹⁵ See *id.*

⁹⁶ See, e.g., *supra* at 22–23 (incidents dated March 2024).

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3. Pomona should issue an official statement affirming that Jewish students have a right to express their identification with Judaism, Jewish heritage and culture, and Israel openly on campus—free from harassment and discrimination—and that the College will protect from harassment and discrimination Jewish students who recognize as part of their identity the Jewish people’s ancestral and ethnic connection to Israel.
4. Pomona should issue an apology to the affected Jewish student body, staff, faculty, and alumni for allowing student organizations to marginalize and ostracize Jewish students and spread hate on campus without condemnation and other sufficient action from the administration. Pomona should continue to pledge to combat antisemitism, and all forms of bias, with actionable items, and communicate action steps to Pomona’s constituency.
5. Pomona should conduct a course offering and curriculum review to ensure that academic spaces are balanced and free from misinformation and bias and reiterate protection of any party to report bias when present. Relatedly, Faculty should abide by American Association of University Professors guidelines and ensure they are sticking to their fields of study.
6. Pomona should continue to issue public commitments against academic boycott and divestment from Israel, Israeli academics, businesses, and institutions, and communicate that the College holds no authority to impose sanctions on any sovereign nation.
7. Relatedly, Pomona must institute new policies to provide sufficient oversight and accountability when students allege antisemitism, including discrimination based on real or perceived shared ancestry. These policies must ensure that Pomona treats allegations of antisemitism on campus as seriously as it treats allegations of other forms of racism or discrimination. In fashioning these policies, Pomona should heed the directive in the U.S. National Strategy to Counter Antisemitism: “We call on schools and colleges to have a clear and transparent mechanism for students to report hate incidents and acts of antisemitism. Schools and colleges should also be transparent about the measures taken in response to such reports. This should include resources for students who have been the victims of intimidation, undue harassment, or violence on the basis of being Jewish or perceived as Jewish.”
8. The ASPC’s student members—who oversee all of The Claremont Colleges’ student organizations and make decisions about funding—must undergo antisemitism training

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so as not to discriminate against student organizations that may have Jewish or pro-Israel leanings.

9. Pomona should define harassment to include public calls for genocide.
10. Pomona should review and update its time, place, and manner restrictions that would protect students from harassment at demonstrations, enforce those restrictions during demonstrations, and otherwise commit to enforcing Pomona's policies to protect all students from being harassed, including Jewish students.
11. Pomona should unequivocally condemn speech glorifying foreign groups designated as terrorists by the U.S. government and should prohibit university funds from being used to support activities that promote terror and recognized terror organizations.
12. Whenever groups or individuals on Pomona's campus express hate speech, Pomona should issue a statement declaring that the speech is antithetical to the values of Pomona.
13. Pomona should create a Committee on Jewish Life, consisting of students and faculty selected in consultation with a diversity of Jewish student leaders, who will work with appropriate administrators to create programs and activities to improve the campus climate for the benefit of all students, faculty and staff. This Committee should have an escalating chain of responsibility that extends directly to the Office of the Provost.
14. Pomona should appoint or engage an individual with demonstrated expertise and sensitivity to the problem of campus antisemitism to enhance compliance with applicable school policies and recommend changes in practices and policies, in furtherance of Pomona's commitment to provide a campus environment free of harassment or discrimination against Jewish students.
15. Pomona should retain an independent, external consultant who would assess Pomona's procedures for enforcing applicable system-wide antidiscrimination policies and make recommendations about best practices. Pomona will share the consultant's recommendations with Pomona's Jewish community—including the Brandeis Center and ADL—and make the consultant's recommendations publicly available (subject to any privacy or confidentiality restrictions imposed by law). Any of the consultant's recommendations Pomona adopts will be in addition to, and not in lieu of, any other requirements Pomona adopts.

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16. Pomona should appoint an independent monitor to assess, on a yearly basis, the effectiveness of Pomona's Title VI efforts. In appointing this independent monitor, Pomona should take into consideration the recommendations and suggestions made by its consultant. This monitor will be overseen by the Office of the Provost and will be removable only for cause.
17. Consistent with Executive Order 13899, Pomona should state that it will be guided by the IHRA Working Definition of Antisemitism, as well as the accompanying examples, when addressing incidents of antisemitism on campus.

VII. Request for Section 201(a) Mediation

The Complainants request quick and timely mediation at the time of filing pursuant to Section 201(a) of OCR's Case Processing Manual.⁹⁷

VIII. Conclusion

We respectfully submit that this letter demonstrates that on Pomona's campus, there exists an atmosphere of harassment and hostility toward Jewish students who, as an expression of their Jewish identity, recognize the Jewish people's ancestral and ethnic connection to Israel. We urge OCR to initiate an investigation of Pomona for failure to comply with Title VI, and, if it should find appropriate, to impose upon Pomona the remedies we set forth above.

Sincerely yours,



Alyza D. Lewin

President

The Louis D. Brandeis Center for Human Rights Under Law

1717 Pennsylvania Avenue NW

Suite 1025


Washington, DC 20006

⁹⁷ Off. for Civ. Rights, U.S. Dep't of Just., *Case Processing Manual*, <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>, at Article II: Section 201 (last visited Apr. 17, 2024).

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A handwritten signature in black ink that reads "James Pasch". The signature is written in a cursive style with a large, stylized initial "J".

James Pasch
Senior Director, National Litigation
Anti-Defamation League
605 3rd Avenue
New York, NY 10158

A handwritten signature in blue ink that reads "Baruch Weiss". The signature is written in a cursive style with a large, stylized initial "B".

Baruch Weiss
Partner
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave, NW
Washington, DC 20001-3743
T: +1 202.942.5000
baruch.weiss@arnoldporter.com

Exhibit A

Fw: Two Incidents of Antisemitism

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

From: Josh Eisenberg <Josh.Eisenberg@pomona.edu>

Sent: Friday, November 17, 2023 3:11 PM

To: [REDACTED] Avis E
Hinkson <Avis.Hinkson@pomona.edu>

Cc: [REDACTED]
[REDACTED]

Subject: Re: Two Incidents of Antisemitism

Thank you [REDACTED]. I will try to connect with [REDACTED] but we might not be able to meet until after Thanksgiving.

But please continue to share.

Respectfully,

Josh Eisenberg
Dean of Campus Life
Interim Title IX Coordinator
Pomona College
909-621-8610 (18610, on-campus)
he/his/him

[Make an appointment](#)

From: [REDACTED]

Sent: Friday, November 17, 2023 2:52 PM

To: Josh Eisenberg <Josh.Eisenberg@pomona.edu>; [REDACTED] Avis E
Hinkson <Avis.Hinkson@pomona.edu>

Cc: [REDACTED]
[REDACTED]

Subject: Re: Two Incidents of Antisemitism

Dear Dean Eisenberg,

Thank you for getting back to us. We are working to gather additional evidence and will send you any relevant material. In the meantime, however, the person who reported these allegations to us is open to sit down with you and discuss what they have seen and experienced regarding CSWA in further detail. Their name is [REDACTED], and they are a student at CMC. Their email is [REDACTED]

Sincerely,

[REDACTED]

From: Josh Eisenberg <Josh.Eisenberg@pomona.edu>

Sent: Friday, November 17, 2023 1:45 PM

To: [REDACTED] Avis E Hinkson <Avis.Hinkson@pomona.edu>

Cc: [REDACTED]
[REDACTED]
[REDACTED]

Subject: Re: Two Incidents of Antisemitism

Good afternoon,

Thank you very much for this email. We will be investigating these allegations.

If you could send any additional information or documentation to me including emails, screenshots, etc. I would appreciate it.

Respectfully,

Josh Eisenberg
Dean of Campus Life
Interim Title IX Coordinator
Pomona College
909-621-8610 (18610, on-campus)
he/his/him

[Make an appointment](#)

From: [REDACTED]

Sent: Friday, November 17, 2023 12:37 PM

To: Josh Eisenberg <Josh.Eisenberg@pomona.edu>; Avis E Hinkson <Avis.Hinkson@pomona.edu>

Cc: [REDACTED]
[REDACTED]

Subject: Two Incidents of Antisemitism

Dear Deans Hinkson and Eisenberg,

Haverim has been made aware of two significant antisemitic incidents in the past few days. Both students and faculty are being discriminated against, in violation of the student code, as well as the values of the college.

The first was reported to us through our online antisemitism report Google Form. The report claims that leadership of the 5C Club 5C Student Workers Alliance went through the organization's Instagram, and blocked anyone with a "Zionist sounding name," whether a follower or not. This has since been confirmed by another individual. This is egregious antisemitism and ethnic profiling, and a violation of the student code. Furthermore, we have also heard that this blacklisting went beyond Instagram and that a list of "Zionists" on campus exists. This is a concrete threat to the safety of students at the 5Cs.

The second has been reported to us by word of mouth, and concerns Professor [REDACTED]'s classes. Individuals have alleged that the club Claremont Student Justice for Palestine has created a "blacklist" of Professors and classes students should boycott. We are so far aware that Prof. [REDACTED] and [REDACTED] classes, which relate to antisemitism and Judaism, have been blacklisted. Indeed, Prof. [REDACTED] has confirmed with us that [REDACTED] has never seen such low numbers of students pre-registered for [REDACTED] classes. We find this concerning as it goes against the values of the college, and because these classes are unrelated to the Israel/Palestine conflict. These are classes about Judaism, and the historical and ongoing struggles faced by the Jewish people. The boycott of these classes is nothing but antisemitism. We are also aware of a message sent to all Pitzer students by a Student Senator, which encouraged people to "check their profs" before registration, and linked to the statement condemning the Oct. 7th attacks, which was authored and signed by a number of CMC faculty, many of them Jewish.

We urge you to address these incidents with haste, and make clear that antisemitism is unacceptable and has no place on campus. And while such condemnations have been made in the recent past, we believe it is time to act on them. These incidents are part of a larger climate here in Claremont, which has already pushed three Jewish students to leave campus, with two of them intending to transfer away. Leaving these incidents unaddressed or insufficiently so will only encourage those who seek to intimidate and discriminate against Jews. The boycott of Jewish Professors and classes, the blacklisting of Jews from clubs, and the creation of lists of "Zionists", are all steps on the road to a very dark path. Please act now before it is too late.

Sincerely,

[REDACTED]

[REDACTED]

[REDACTED]