

**UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS**

**ALEXANDER KESTENBAUM and  
STUDENTS AGAINST  
ANTISEMITISM, INC., Plaintiffs**

v.

**PRESIDENT AND FELLOWS OF  
HARVARD COLLEGE, Defendant.**

**AUTO GENERATED SUMMARY OF COMPLAINT**

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**SYNOPSIS****UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS****ALEXANDER KESTENBAUM and  
STUDENTS AGAINST ANTISEMITISM, INC.,  
Plaintiffs****V.****PRESIDENT AND FELLOWS OF HARVARD  
COLLEGE,  
Defendant.**

The plaintiffs, Alexander Kestenbaum and Students Against Antisemitism, Inc. (SAA), allege that Harvard has become a center of intense anti-Jewish hatred and harassment, particularly following an attack on Israel by Hamas terrorists on October 7, 2023. They claim that pro-Hamas students and faculty have engaged in marches, building occupations, and other disruptive activities on campus, promoting violence against Jews and harassing and assaulting Jewish students. The plaintiffs assert that Harvard has failed to take action to stop this conduct or to discipline those responsible.

The complaint details a pattern of behavior at Harvard that the plaintiffs argue demonstrates a double standard in the enforcement of policies, with Jewish students being selectively denied protection from harassment. They claim that Harvard hires professors who support anti-Jewish violence, ignores Jewish students' pleas for protection, and allows advocacy for the murder of Jews and the destruction of Israel. Conversely, Harvard enforces policies against other forms of bias and regularly disciplines students and faculty for harassment of other minority groups.

The plaintiffs also allege that Harvard's leadership has failed to address antisemitism adequately, citing the resignation of the only rabbi on Harvard's Antisemitism Advisory Group following testimony before Congress by Harvard's president that calls for the genocide of the Jewish people do not necessarily violate Harvard's policies.

The complaint further alleges that Jewish students, including the plaintiffs, have been deprived of the ability to fully participate in Harvard's educational programs and have been placed at severe emotional and physical risk. They claim that Harvard's admissions policies have significantly reduced the number of Jewish students, further isolating and endangering the remaining Jewish population on campus.

The plaintiffs argue that Harvard's actions and inactions constitute a violation of Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives federal funding. They seek institutional changes at Harvard, including disciplinary measures against those responsible for antisemitic discrimination and abuse, the implementation of required antisemitism training, and the payment of damages for lost or diminished educational opportunities.

The complaint concludes with a demand for a jury trial and a prayer for relief seeking injunctive relief, compensatory and punitive damages, attorneys' fees, and other appropriate remedies.

**NARRATIVE SUMMARY****UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS**

**ALEXANDER KESTENBAUM and  
STUDENTS AGAINST ANTISEMITISM,  
INC., Plaintiffs**                      v.                      **PRESIDENT AND FELLOWS OF  
HARVARD COLLEGE, Defendant.**

**PRELIMINARY STATEMENT**

Harvard, a premier U.S. university, is being accused of severe antisemitism escalation since the October 7, 2023, Hamas terrorist attack on Israel, resulting in 1,200 deaths. Allegedly, mobs of pro-Hamas students and faculty have marched, vociferously chanting antisemitic slogans, occupying buildings, promoting violence against Jews, and indulging in online harassment with impunity. The university is charged with its failure to curb such conduct and sanction offenders.

Allegations suggest a double standard at Harvard, characterized by selective policy enforcement failing to protect Jewish students. Harvard's questionable hiring decisions regarding antisemitic-leaning professors, dismissal of Jewish students' concerns, and turning a blind eye to open advocacy of Jewish genocide are cited as proof. In contrast, Harvard warns severe punishment for sizeism, fatphobia, racism, transphobia.

Allegedly, Harvard's former president's casual dismissal of Jewish genocide in front of Congress received unanimous support from Harvard's governing board. This testimony led to the resignation of the only rabbi on Harvard's recently established Antisemitism Advisory Group.

Accusations also include claims that Kestenbaum, SAA's members, and others alerted Harvard about its interminable hostile environment symptomatic of a severe antisemitism problem. Alleged inaction or worse, indulgence, from the university has been highlighted. Examples such as the university providing sustenance to a mob occupying a campus building are shared to lend credence to this accusation.

Harvard's previous inaction allegedly led to increased anti-Jewish sentiment at the university after the October 7 terrorist attack. Numerous affiliations with Hamas from students and faculty members, refusal to condemn nations such as Syria, Yemen, Pakistan, China, Somalia and Nigeria for their humanitarian crimes, and purported antisemitic harassment were cited.

Harvard is accused of using freedom of expression principles to justify its inaction regarding antisemitic activities. The university's perceived aggression in dealing with bias against other minorities is highlighted to underscore Harvard's potential partiality towards Jewish students.

Grievance of intense antisemitic experiences from Kestenbaum and other Jewish students and Harvard's alleged discriminatory admission policies reducing the number of Jewish student admissions signify intensified risks for Jewish students.

Harvard's alleged indifference towards antisemitic activities is claimed to violate Title VI of the Civil Rights Act of 1964. Plaintiffs seek the implementation of comprehensive remedies including disciplinary actions against offenders, declining donations promoting antisemitism, antisemitism training for Harvard community, and reparations for diminished educational opportunities.

## **PARTIES**

The plaintiff, Students Against Antisemitism, Inc. (SAA), is a non-profit corporation established under Delaware's laws, with the primary mission of defending individuals' civil and human rights. This includes the right to equal protection and the prevention of antisemitism in higher education through litigation and other methods. They comprise voluntary members aggrieved or affected by antisemitism and discrimination within higher education, including present Jewish students at Harvard experiencing a hostile educational environment that hampers their access to Harvard's educational and extracurricular activities.

Among the plaintiffs are Alexander Kestenbaum, a Jewish student enrolled in the Masters in Theological Studies program at the Harvard Divinity School and a member of the SAA, and five other SAA members who are Jewish students at Harvard University in various disciplines.

The defendant is the President and Fellows of Harvard College, which is Harvard University's legal name, a private educational institution situated in Cambridge, Massachusetts. Despite being the wealthiest university in America with an endowment of approximately \$50.7 billion, it receives significant direct financial assistance from the government, including grants and loans. It garnered a minimum of \$642 million and \$676 million in federal aid in fiscal years 2022 and 2023, respectively, and will receive considerable direct federal financial aid in fiscal year 2024 and indirect aid through students' tuition paid with federal financial aid. Thus, as a federal funding recipient, Harvard is bound by Title VI.

### **A. Title VI Protects Jewish Students Against Antisemitism**

Title VI ensures nondiscrimination based on race, color, or national origin, and protects all students, including Jewish students, in programs that receive federal financing. The Office of Civil Rights (OCR) has maintained a policy since 2004 to probe Title VI complaints against universities regarding antisemitism. OCR emphasized in a 2010 letter that schools must address

harassment incidents, especially anti-Semitic harassment, that create a "hostile environment" infringing any student's right to participate in school activities or are ignored by school employees.

Both the Trump and Biden administrations have underscored the need to counter antisemitism. Trump issued an executive order in 2019 aimed at battling anti-Semitism, charging the executive branch to strictly enforce Title VI against any such discrimination. Simultaneously, Biden launched a detailed strategy and campaign against antisemitism in 2023, reminding schools of their legal responsibility under Title VI to ensure a non-discriminatory environment, including those directed at Jewish or Israeli students.

The International Holocaust Remembrance Alliance (IHRA) definition of antisemitism provides examples such as blaming Jews collectively, denying the Holocaust, accusing the Jews or Israel of inventing the Holocaust, and invoking classic anti-Semitic stereotypes against Israel and its people. The IHRA definition is vital, as the land of Israel is central to Jewish identity, tradition, religion, and culture, and Zionism arises from these roots. Consequently, anti-Zionism is discriminatory and anti-Semitic, as Dr. Martin Luther King, Jr. indicated, "When people criticize Zionists, they mean Jews. You're talking antisemitism."

Discrimination against Jewish students at colleges, including Harvard, has showcased that anti-Zionism is indeed antisemitism. Harakat al-Muqawama al-Islamiya, also known as Hamas, a State Department-listed terrorist organization since 1997, has been intensely anti-Semitic from its inception. Hamas' charter advocates the annihilation of Jews, and they have engaged in numerous terror attacks on Israeli civilians in line with their views, like suicide bombings, shooting, stabbing, including during the Second Intifada.

## **B. Harvard Fails to Enforce Its Own Policies to Protect Jewish Students**

Harvard, despite having at least five applicable sets of policies, discriminates against Jewish students by refusing to apply these policies in a non-discriminatory manner. The policies, including the Harvard University Non-Discrimination and Anti-Bullying Policy, the University-Wide Statement on Rights and Responsibilities, the Free Speech Guidelines, Harvard's Student Organization Policies, and the contents of Harvard's various student handbooks, are not enforced to prevent antisemitism on campus, creating a selective enforcement situation. This reflects an egregious double standard as it contradicts Harvard's aggressive enforcement of its policies concerning misconduct not involving antisemitism.

## **Non-Discrimination and Anti-Bullying Policy**

In September 2023, Harvard established a University-wide Non-Discrimination Policy and Anti-Bullying Policy, applicable to any discriminatory behavior by a Harvard community member in any context that may generate a hostile work or educational environment. The Policy bans "discriminatory disparate treatment" and "discriminatory harassment" based on race, color, national origin, ancestry, religion, or creed, along with other traits. Disparate treatment is described as unfairly targeting someone due to protected traits, detrimentally affecting their participation in university programs. Harassment is defined as unwelcome conduct rooted in the protected status of an individual or group, hindering a student's academic performance or participation in programs. Bullying receives a similar definition with an emphasis on harmful interpersonal aggression that creates an intimidating, hostile, or abusive environment.

The Policy also establishes guidelines for proper implementation, ensuring fairness, rigour, impartiality, timeliness, and transparency in the process, along with defined timeframes for complaints' review, investigation, and action. Sanctions may range from suspension, probation, expulsion, termination, or even a potential tenure termination recommendation for faculty members.

Harvard's schools also issue student handbooks providing misconduct policies and procedures alongside the principles of the University-wide Non-Discrimination and Anti-Bullying Policy. Harvard College and Harvard Divinity handbooks preserve the institution's right to maintain health and safety, even in extraordinary circumstances. These handbooks categorize acts of discrimination as unlawful and unacceptable counter to Harvard's principles. Harvard Law too incorporates the Non-Discrimination Policy, confirming that everyone at the Law school, including students and faculty, are bound by it, emphasizing respect, dignity, and personal responsibility.

Despite these explicit pronouncements and self-declared commitment to negating discrimination, Harvard's actual treatment of the Jewish community contradicts the policy, implying their unworthiness for the same protections given to other groups.

## **Statement on Rights and Responsibilities**

Harvard's University-Wide Statement on Rights and Responsibilities guarantees freedoms such as protection from personal force and violence, and assures freedom of movement. It pronounces actions that infringe on these rights or disrupt a Harvard member's usual duties or cause property damage as severe violations of personal rights. It stipulates that grave personal harassment or unauthorized building occupancy are seen as significant infringements of Harvard's standards. The Statement highlights that deep personal harassment that equates to extreme disrespect for

others' dignity is an unwarranted violation of the personal rights that the University upholds. It is also inferred from this Statement that any unauthorized occupation of University premises hindering members' usual activities is in breach of these terms and is liable to suitable disciplinary action.

### **Free Speech Guidelines**

Harvard's Free Speech Guidelines supplements the Statement on Rights and Responsibilities in defining disrupted campus events and clarifies it as continuous actions preventing an audience from hearing or seeing an event. It categorizes 'obstruction of freedom of movement' and 'acts or threats of physical violence' as grave offenses, hence punishable. Conducts dishonoring characteristics like race and ethnic group and racial or intense personal harassment are also deemed as such.

Harvard Public Health and Harvard Law have similar policies, which articulate grounds for disciplinary actions. Violation of non-discrimination policy, obstruction to administrative areas, faculty offices, and school facilities qualify as offenses. Harvard Law's handbook further amplifies on forms of dissent, disruption of class activities, obstruction to access of meetings, and hindrance to communication via repetitive noise.

Harvard's policies state that students' Harvard-issued identification (HUID) cards are for reckoned holders for university uses only. Misuse of the same will bear consequences with the Harvard University Police Department (HUPD) having the authority to request anyone's HUID card to verify their affiliation with the university or their status as an authorized visitor.

### **Student Organization Policies**

Harvard, in its Student Organization Resource Guide and handbooks, sets regulations for student organizations under its "Student Organization Policies". These policies reinforce the institution's Non-Discrimination Policy, specifying that any form of discrimination or harassment is not tolerated, particularly on the basis of race, color, national or ethnic origin, religion, or any other characteristic protected by federal or state law. These rules are applicable to Harvard-recognized student organizations, which are those registered with Harvard, receiving support and benefits in return for adherence to the university's policies.

Furthermore, the policies disallow unrecognized student organizations from conducting activities in Harvard's name without obtaining permission from a dean or provost, promising no provision of support or benefits to such groups. However, in violation of these regulations, Harvard continually allows two unrecognized groups, Harvard Boycott, Divestment, Sanctions ("Harvard BDS") and Harvard Afro, to conduct disruptive protests, marked by anti-Semitism within the



university premises. These groups, without consequence, regularly engage in discriminatory and harassing actions against Jewish and Israeli students, even employing Harvard's name in their activities. Such actions include staging unauthorized events aimed at disrupting classes and promoting violence against Jews and Israelis under the banner of "globalizing the Intifada". Despite the violations of its policies, Harvard has thus far failed to take action against these organizations.

### **C. Harvard's Recent History of Antisemitism and Civil Rights Violations**

The manifestation of antisemitism at Harvard University is not a recent incident; it traces its roots back to the 1920s under President Abbott Lawrence Lowell's administration which enforced admissions quotas to "diminish the Jews" and reinstate Harvard as a "Gentile" institution. The university's tolerance towards antisemitism has led to a marked increase in hate and harassment, most notably after a terrorist attack by Hamas on October 7, creating an anti-Jewish atmosphere. The university's lack of disciplinary measures against the perpetrators further exacerbates the hostile environments faced by Jewish students.

This hostile environment was highlighted in a study conducted in 2022 by the AMCHA Initiative – a non-profit that examines antisemitism in higher education. It revealed Harvard as the most antisemitic institution in the U.S.. Additionally, a thesis dated March 2023, penned by a Harvard student, titled "The Death of Discourse: Antisemitism at Harvard College," provides firsthand accounts of Jewish students' experiences with antisemitism and anti-Zionism on campus. The thesis paints a picture of pervasive and potent antisemitism on campus, with a high degree of self-censorship among Jewish students in order to protect themselves socially and academically, rendering certain courses essentially inaccessible due to the associated bias and harassment.

#### **Harvard's Renewed Embrace of Antisemitism Has Fostered a Hostile Environment for Jewish Students**

In the past decade, Harvard Jewish students have experienced multiple antisemitic incidents. An instance on October 15, 2015, involved the Harvard College Palestine Solidarity Committee hosting a disruptive "die-in" protesting an Israeli soldier event. It was supported by Dean Stephen Lassonde, Harvard Foundation for Intercultural and Race Relations Director S. Allen Counter, and other faculty members with no disciplinary action taken. A swastika was discovered in a Harvard Law classroom on November 5, 2015.

Both SJP and its affiliate, Harvard PSC, have carried out vitriolic antisemitic actions on campus, including BDS campaigns and harassment of Jewish students. Harvard has failed to act against these activities. April 14, 2016, saw an episode of offensive speech by an SJP student leader at a

Harvard Law event featuring Israeli politician Tzipi Livni. Despite the violation of policies, Harvard declined to discipline the student.

During the April 2017 Israeli Apartheid Week, Jewish students were targeted by mock notices from Harvard PSC, with no disciplinary steps taken by Harvard. Other incidents include supporting individuals known for their antisemitic views, vandalism of Hillel's building, permitting antisemitic course content, partnership with a university known for discrimination against Jews, harassment of retired Israeli Major General Amos Yadlin, and disruption of convocation ceremonies. No action was taken against these incidents.

Simultaneously, Harvard's Jewish student population decreased significantly – from twenty-five percent of the undergraduate student body in 2013 to less than ten percent in 2023.

### **Harvard Refuses to Discipline a Professor Who Intentionally Discriminated**

In March 2023, Harvard Kennedy Professor Marshall Ganz was independently confirmed by a Harvard-commissioned investigation to have discriminated against three Jewish Israeli students in his course, "Organizing: People, Power, Change". Ganz, known for his criticisms of Israel and Israeli 'apartheid', interfered with the students' class project, a campaign aiming to unite Israelis to support liberal democratic values. Ganz pressured the students to alter the project's language regarding Israel as a 'liberal Jewish democracy', stated 'Jewish' in relation to 'Israel' creates an unsafe environment, much like referring to the US as under 'white supremacy', and ultimately prohibited it on grounds of being controversial and disruptive to the learning environment. Further retaliatory actions saw Ganz making 'Palestinian solidarity' the topic for a class session and silencing the students' speech, claiming they had already caused problems.

Following a report from the Brandeis Center, an investigation led by law firm Kurker Paget was initiated by Harvard, concluding in June 2023 that Ganz had violated Harvard's Statement on Rights and Responsibility. Kurker Paget found Ganz guilty of subjecting students to anti-Israeli and anti-Semitic bias, violating their rights to free speech, treating them differently due to their Israeli nationality and Jewish ethnicity, prioritizing other students' concerns, and hindering their ability to benefit from the educational program.

Harvard Kennedy Dean, Douglas W. Elmendorf, upon receiving Kurker Paget's report, accepted its findings, agreeing that violations of school policies occurred. Elmendorf stated Harvard's intentions to rectify the issue and ensure such incidents do not recur. However, after over four months of inaction from Harvard on disciplining Ganz, Brandeis Center sent another letter demanding immediate action on October 30, 2023. This inaction, even after the confirmation of Ganz's violations per Title VI, was perceived by Kestenbaum and other Jewish students as further evidence of Harvard's hostility towards Jewish students.

## **D. Harvard's Deliberate Indifference to Antisemitism Has Continued Despite Intense**

The case alleges that Harvard has shown clear indifference and an unreasonably lax response to anti-Jewish harassment, which is accused of being discriminatory in its exclusion of Jewish students from protections offered by the University's policies. This breach has accordingly created a viable breeding ground for antisemitic behavior. Furthermore, the problem has been amplified in the aftermath of Hamas's massacre on October 7, promoting an intolerable surge of antisemitic abuse within the campus environment.

### **i. October 7, 2023: Hamas Terrorists Commit Horrific Atrocities Against Innocent Civilians in Israel**

On the 7th of October, 2023, Israel was subjected to a surprise attack by Hamas, comprising murder, torture, violence, and abductions committed against Israeli citizens, including children and the elderly. Thousands of terrorists invaded southern Israel, unleashing terror in the towns and at a music festival near the Gaza border. Over 1,200 people were brutally murdered, and over 200 taken hostage in what was declared the deadliest day for Jews since the Holocaust. Israel Defense Forces ("IDF") regained control, though senior Hamas officials, in blatant disregard for human life, vowed to continue similar attacks until Israel's annihilation.

Troublingly, several Harvard students and faculty members celebrated Hamas's heinous acts or justified them. Jewish students faced increasing harassment and violence in support of such attacks and condemnation of Israel's defensive reactions. Some faculty members publically supported this, refusing to counteract even minor incidences of antisemitism within the institution. Allegations against the "Israeli regime" included false claims of "genocide", "ethnic cleansing", enforcing an "open-air prison" in Gaza, and "apartheid". The hypocrisy of these individuals was evident as they turned a blind eye to massive human rights violations in Syria, Yemen, Pakistan, China, Somalia, and Nigeria.

### **ii. Harvard Fails to Respond to the October 7 Atrocities, While Student Groups and**

In the aftermath of a massacre by Hamas on October 7, Harvard did not publicly address the event, leading to claims of discrimination and harassment against Jews, as some faculty and students seemingly justified and celebrated the events. Certain student organizations allegedly took part in antisemitic protests and actions post-massacre, and on October 8, many of these signed a statement blaming Israel for the violence. Harvard remained silent, incurring public criticism, including former Harvard President Lawrence Summers' Twitter post on October 9 expressing deep disillusionment due to the university's lack of response and seeming neutrality towards the violence.

On the same day, a statement was released by Harvard, not condemning Hamas or the alleged antisemitic actions taken by student groups. This drew contrasts to statements from other universities such as the University of Florida, condemnations of Hamas were expressed unequivocally.

One SAA member emailed Harvard's leadership, asking for a public condemnation of Hamas and received no immediate response but was later referred to mental health services. President Gay eventually condemned Hamas's actions without addressing the students' October 8 statement. In response, she claimed she failed to speak sooner because she believed the student's statement was wrongly attributed to the university.

After this, a billboard truck displayed the identities of students affiliated with these groups. On October 24, Dean Dunne emailed these students about steps being taken to protect their identities, first actions Harvard took following the October 7 events.

On October 11, Harvard Divinity's Religion and Public Life Department issued a statement on the ongoing violence, allegedly filled with historical distortions. SAA Member #2, whose family was in Israel during the massacre, returned to class on October 11 but found the environment difficult and inclusive of harassment from peers.

On October 13, a group of Harvard alumni serving in Congress penned a letter expressing outrage at Harvard's handling of the situation, demanding clear condemnation of antisemitism, and thorough investigation into the origins of the alleged antisemitic activities on campus.

### **iii. Harvard Permits Increasingly Aggressive Student-Led Disruptions**

The lawsuit condemns Harvard University for its repeated failure to combat pervasive antisemitism on its campus. It details numerous instances of antisemitic incidents and protests taking place at the university, with students reportedly emboldened by the university's inaction, creating a hostile environment for Jewish students.

The lawsuit details multiple instances of protest and harassment. These include an "emergency rally" organized by Harvard PSC and Harvard GS4P on October 14, 2023, denouncing Israel with signs labeling it as an "apartheid" and "genocide" state. This is alongside antisemitic writings chalked on Harvard Law's entrance and an aggressive "die-in" protest on October 18, where Jewish students were both physically and verbally attacked.

More incidents followed, with protesters taking over the Caspersen Student Center lounge from October 30 for an entire semester, causing Jewish students to avoid the area due to fear of

harassment. Other serious events included a staged “vigil for martyrs” in the lounge, advocating for convicted Palestinian terrorists. The protests continued with no intervention from the university until November 15.

The complaint purports that even when students contacted administrators with proof of these incidents, the university took insufficient action, thereby worsening the hostile environment for the Jewish community on campus. It cites an alumni letter from the Harvard Jewish Alumni Alliance, signed by over 1,800 alumni, demanding concrete action.

The complaint also accuses university administrators of favoritism towards non-Jewish students protesting Palestinian rights, by allegedly offering them food and refusing to penalize them for disruptive behaviors, including building takeovers. The complaint adds that Jewish students were instead compelled to abandon or conceal their religious identities.

In conclusion, the lawsuit alleges Harvard of possessing actual knowledge of all the antisemitic incidents aforementioned from a combination of personal observation by administrators, students’ complaints, and news articles. Yet, the university is accused of deliberately taking ineffective action to address any incident adequately, thereby perpetuating a hostile environment for its Jewish student community.

#### **iv. Harvard’s Acceptance of Antisemitic Discrimination and Harassment by Its Faculty**

Harvard faculty, instructors, and students are alleged to have contributed to a intimidating environment for Jewish students, with claims of explicit endorsement and participation in discriminatory activities. For instance, Harvard was accused of doing nothing amidst faculty members encouraging students to participate in disruptive, discriminatory events.

A scenario demonstrating this included Ibrahim Bharmal, a Harvard Law Civil Procedure teaching fellow, inciting students to partake in a vigil supporting Palestine, ignoring recent turmoil involving Israelis, and raising fear among Jewish students. Bharmal allegedly physically assaulted a Jewish student but saw no retribution, causing additional distress among the Jewish student body.

Other instances included Professor Jon Hanson widely promoting negative views about Israel and Jews, once encouraging students to learn about "Israeli apartheid". Professor Clio Takas and Professor Nancy Krieger both facilitated student participation in political protests, which in some cases led to Jewish students being excluded from academic proceedings.

On November 13, over 120 Harvard professors published their opposition to Harvard's Anti-Semitism Advisory Group, denouncing it as an attack on academic freedom. Among the

signatories were several professors believed to have exhibited pro-Palestine bias and sympathy towards Hamas's terrorist attack. The letter voiced disapproval of actions against anti-Semitism at Harvard and rallied around antisemitic rhetoric while completely ignoring hate acts on Jewish civilians and students.

Harvard's Center for Middle Eastern Studies invited Professor Rashid Khalidi, a controversial figure known for blaming Jews for Hamas attacks and having affiliations with a terrorist group. Lastly, Harvard's Faculty and Staff for Justice in Palestine released a deceptive statement about the violent "October 18 Die-In", minimized an antisemitic assault, and objected to Harvard cooperating with the FBI's subsequent investigation. These actions, coupled with faculty members' criticism of Harvard's Anti-Semitism Advisory Group, reflect an alleged antisemitic atmosphere at Harvard Law.

#### **v. President Gay's December 5 House Antisemitism Hearing Testimony Confirms**

Harvard's indifference towards its hostile Anti-Jewish climate became apparent at a House Antisemitism Hearing on December 5, 2023, where President Gay, alongside the MIT and UPenn leaders, was present. Throughout the hearing, President Gay evaded giving a clear response when Rep. Elise Stefanik questioned about antisemitic rhetoric at Harvard such as calls for Jewish genocide. Though President Gay acknowledged such speech as personally offensive, she refrained from recognizing it as being against Harvard's principles directly.

Moreover, President Gay admitted to knowledge of rallies at Harvard featuring antisemitic chants yet refrained from acknowledging them as a violation to Harvard's policies. When queried about Harvard's potential acceptance of an avowed Neo-Nazi, President Gay called such behavior inconsistent with Harvard values. She further admitted it as a form of antisemitism while maintaining Harvard region of free expression. However, she was accused of allowing wide freedom for antisemitic expression, but not other forms of hateful expression.

Rep. James Comer questioned President Gay about Harvard's acceptance of funding from entities tied to terrorism, like Qatar, Lebanon, and the Palestinian Authority. She testified that Harvard only accepts gifts that align with their mission and respect federal law, even though accepting gifts from places like Qatar, where human rights offenses take place, suggests otherwise.

A spectator, Kestenbaum, was shocked and dismayed by Harvard's president's unwillingness to condemn calls for genocide of Jewish people at the university. The testimony led him fearing for his personal safety and contemplating leaving Harvard.

## **vi. The House Education Committee Announces a Full Investigation into Harvard's**

Following the House Antisemitism Hearing on December 5, President Gay's testimony met with substantial public opposition. Jacob M. Miller, the Harvard Hillel President, and Campus Rabbi Getzel Davis expressed their disappointment with President Gay's response to allegations of antisemitism on the Harvard campus.

On December 7, Rabbi David Wolpe, a member of the Anti-Defamation League and visiting scholar at Harvard Divinity, resigned from Harvard's Antisemitism Advisory Group. He criticized both the university's system as well as the underlying ideology of oppression that characterized Jewish people as inherently evil and disregarded Jewish suffering. Wolpe later explained on various platforms, including CNN and a December 22 podcast, that his resignation resulted from his belief that he was unable to effectuate change within the system.

Another former member, Dara Horn, expressed similar concerns. She stated that effecting real change would invite backlash and require the firing of faculty, some of whom she describes as "open Hamas apologists". She accused Harvard of teaching the very antisemitism it claims to fight.

On December 8, 74 Congress members wrote to the boards of Harvard, MIT, and Penn, calling on them to remove their presidents for failing to address antisemitism on campus effectively. They underscored that on-campus antisemitism results in creating an unsafe environment for Jewish and Israeli students.

On December 12, while the Harvard governing body issued a statement of support for President Gay, it conceded that her initial response should have decisively condemned Hamas, supporting an approach that would not tolerate violence against students.

Despite the support from the governing body, President Gay resigned on January 2, 2024, in light of plagiarism allegations. The announcement email from Harvard condemning the attacks on President Gay contrasts starkly with Harvard's reluctance to use similar harsh language against the persistent manifestations of antisemitism on campus.

## **E. Harvard's Double Standard Towards Addressing Antisemitism**

Harvard's inattention to antisemitism, in stark contrast to its responsiveness when non-Jewish persons are victims of bias incidents, has deepened the discrimination and harassment Jewish students, including Kestenbaum and the SAA's Jewish members, endure. Harvard's choice to ignore anti-Jewish harassment, prioritizing free expression, while swiftly addressing harassment against non-Jewish groups demonstrates this double standard. The said bias is further observed in

Harvard's uneven application of free speech principles, official communications and initiatives tackling bias or crucial social issues, and in disciplinary proceedings against faculty, students, or student organizations.

### **Harvard Only Embraces Free Expression Principles When It Can Use Them to Protect and Permit Antisemitic Harassment**

Harvard's selective implementation of free expression principles is at the core of its alleged double standard, with the claim that it discriminates against Jewish students. The university's use of free expression to justify allowing antisemitic harassment is contentious, considering that the Foundation for Individual Rights and Expression ranks Harvard last among 248 colleges for free speech. This claim hinges on the argument that Harvard protects speech conforming to its views but silences dissenting voices. By contrast, Harvard seems to censor controversial speakers unless they hold antisemitic views. Instances include the cancellation of a course at the Harvard School of Engineering and Applied Sciences in 2021 due to student concerns and the disinvite of Dr. Devin Buckley from the English Department in 2022 for her association with a contentious organization, while permitting individuals like El-Kurd and Hill known for expressing antisemitic sentiments.

### **Harvard Takes Decisive Action to Address Hate, Violence, and Harassment Unless Jews Are the Targets**

Additionally, Harvard is accused of responding decisively against hate and harassment except when Jews are the victims. In recent years, the university has taken strong actions against symbols of racism such as retiring its Law School's shield bearing the crest of slaveholder Isaac Royall Jr. and replacing the term "house masters" due to its connotation to slavery. Moreover, its "Harvard & the Legacy of Slavery" report does not caveat its recommendations with concern for free expression, as Harvard does in handling allegations of antisemitism. While Harvard has committed to making its campus more inclusive, Jewish students claim to be left out.

Harvard's selective stance on global conflict and social justice issues is likewise criticized, suggesting a double standard in its treatment of Jewish students compared to other minority groups. For instance, Harvard strongly condemned racist police killings and Russia's invasion of Ukraine, while its response to Hamas's October 7 massacre was notably different.

Finally, Harvard's efforts towards Diversity, Inclusion, and Belonging (DIB) and anti-racism initiatives allegedly exclude Jewish students. Antisemitic hate speech and harassment on campus have reportedly been treated less seriously than comparable misconduct towards other groups. As per Rabbi Zarchi from Harvard Chabad, the university has a "double culture" where discrimination against the Jewish community is met with silence.



## **Harvard Does Not Hesitate to Discipline Faculty Members Who Make Racist or Other Unpopular Statements, Except When the Statements Are Antisemitic**

Harvard regularly penalizes faculty members seen to support discrimination, with some exceptions for discriminatory behavior towards Jewish individuals. For instance, in 2011, Professor Subramanian Swamy was disciplined for an op-ed proposed policies that were discriminatory against Muslims, resulting in Harvard removing his courses. Professor Eck, who later signed a faculty letter attacking a statement against antisemitism, called for Swamy's disciplinary action.

In 2020, student campaigns led to then-Dean Gay conducting an investigation against Professor David Kane after he invited libertarian political scientist and controversial figure Charles Murray to give an online lecture. This resulted in Kane being temporarily removed before being completely ousted from his position at Harvard.

In March 2023, Harvard Public Health Professor Tyler VanderWeele came under scrutiny due to his participation in an amicus brief in 2015 urging against a federal constitutional view on gay marriage. As a result, he had to participate in a "restorative practices process" to explain his views and numerous emails were sent denouncing his views.

On November 28, 2023, Dr. Joan Donovan accused Harvard of terminating her position due to her intent to publish internal Facebook messages indicating potential harm the platform could cause. She alleges that Harvard did this to protect Facebook amidst its processing of a \$500 million donation from Facebook's philanthropic organization.

Despite this, Harvard appears to remain inactive in response to complaints and reports highlighting antisemitic activities by its faculty members. The reported instances involve professors' antisemitic coursework and tweets and the exclusion of Jewish students from class benefits. No action has been taken against these faculty members even after receiving multiple reports through its anonymous bias reporting system. Examples include tolerant behaviour towards extremist viewpoints expressed by Visiting Scholar Sawsan Abdulrahim and active engagement in discriminatory practices by Professor Johnson.

## **Harvard Punishes Students for Policy Violations That Do Not Involve Antisemitism**

Harvard has consistently disciplined students in breach of regulations unless the victims are Jewish. Examples include the punitive actions following the 1969 Vietnam War protest at University Hall, whereas those responsible for the 2023 takeover faced no repercussions. In 2016, Harvard pulled its men's soccer team's season due to sexist behavior toward female

recruits. Two years later, a Christian student group was put on administrative probation for discrimination against a lesbian student leader. The acceptance of a mass-shooting survivor known for racial slurs was rescinded in 2019. The freshmen who disregarded COVID-19 measures with a party in 2020 were dismissed, while in 2022, the university cautioned its freshmen about "sizeism", "fatphobia" and similar discriminatory conduct violating Harvard policy.

On January 23, 2023, Harvard Law Deans Ball and Monroe issued an email about a security breach involving a homophobic attack. Their swift action in barring the implicated individual from campus evidenced their ability to take prompt action against violence, hatred, and homophobia. Contrary to this, Harvard remains lenient towards anti-Semitic behavior. No significant disciplinary action has been taken against students despite their recurring use of anti-Semitic tropes and involvement in intimidation and harassment.

#### **F. Plaintiffs Are Being Denied Equal Access to Harvard's Educational Opportunities**

Kestenbaum and Jewish student members of the SAA at Harvard claim discrimination due to their Jewish identities, a situation which they allege has led to their reduced sense of inclusion, risked their physical safety, and deprived them of support systems, among other disparities. They accuse the university of persistently refusing to halt discriminatory practices, thereby depriving these Jewish students of benefits that their non-Jewish counterparts enjoy. Owing to this, Jewish students assert that their right to express Jewish identity and their attachment to Israel openly are curtailed.

Kestenbaum and SAA's Jewish members believe that the university's indifferent attitude lets other students and faculty members taunt and harass them without reprisal. Besides not feeling safe, they claim that their educational experience is jeopardized due to this hostile environment which inhibits their focus, study, and overall performance.

Kestenbaum stresses that his participation in non-classroom activities has also been affected, forcing him to withdraw from activities of other cultures as he feels increasingly unsafe due to the rise in antisemitism. Examples are given of other students, such as SAA Members #1 and #2, proudly displaying Jewish symbology but feeling marginalized and unsafe due to the perceived hostile environment.

The document describes SAA Members #1 through #5 as having faced varying forms of antisemitism resulting in their withdrawal from class participation or campus social experiences. It has also led to substantial loss of their academic focus. Dishearteningly, these allegations have been reported to Harvard's administrators with an alleged lack of effective action.

In an email dated November 16, 2023, SAA Member #1 writes to Harvard Law's Title IX program officer, detailing the distress and loss of hope the Jewish students feel towards the administration's lack of action against the ongoing antisemitism.

The impact of the alleged administrative inaction and antisemitism has not only academic but also social consequences, and is asserted to harm the Jewish students' mental well-being, and their sense of security.

### **COUNT I: Intentional Discrimination and Hostile Environment Towards Jewish Students**

Under Title VI of the Civil Rights Act of 1964, plaintiffs argue that Harvard University, as the receiver of financial assistance from the Department of Education, is subject to legal action for the alleged discrimination against Jewish students, including Kestenbaum and members of SAA. Discrimination based on Jewish characteristics is prohibited. They argue that Harvard's actions have and continue to place Jewish students in a hostile environment due to their Jewish characteristics.

Harvard's Administrators had actual notice of this discrimination, which they argue has been severe and persuasive enough to create an ongoing hostile environment depriving Jewish students of their right to equal access to education. It is further alleged that Harvard's response to anti-Semitic abuse has been deliberately indifferent, thus violating Title VI. The university fails to properly address these issues, neglecting to take prompt steps to end harassment and maintain a safe environment for Jewish students.

The hostile environment resulting from perceived or actual Jewish characteristics allegedly deprives Jewish students, including Kestenbaum and members of SAA, of equal access to the resources afforded to non-Jewish students. Plaintiffs allege this discrimination is not passive, but directly and intentionally imposed by Harvard administrators.

Alleged incidents of anti-Semitism, where victims or complainants are Jewish, have been met with inaction or inadequate response by Harvard. These actions constitute differential treatment for Jewish students compared to non-Jewish students. Allegedly, Harvard's actions are the direct, proximate cause of damage suffered by affected students, with specific amounts to be determined at trial.

Plaintiffs are seeking injunctive relief under Title VI, alleging that Harvard's ongoing indifference maintains a hostile environment. They claim that there's no sufficient or speedy legal remedy to stop Harvard's discrimination based on Jewish characteristics. Without intervention, plaintiffs argue, the damage inflicted upon Jewish students is irreparable. They seek compensation for attorney's fees and costs under 42 U.S.C. § 1988.

**COUNT II: Breach of Contract**

In the breach of contract portion of the lawsuit, Plaintiffs reaffirm previous allegations. An express contract was established between Harvard and the plaintiffs Kestenbaum and SAA's Jewish Harvard students through their enrollment at the university. This contract is outlined in Harvard's written policies and procedures, including the Non-Discrimination Policy, Statement on Rights and Responsibilities, Free Speech Guidelines, Student Organization Policies, and other student handbooks. These documents contain contractual obligations for the university regarding students' safety, bias-related abuse, harassment, discrimination, and intimidation.

In compliance with these contracts, Kestenbaum and other Jewish student members of SAA paid their tuition fees with the understanding that Harvard would provide a bias-free environment through effective enforcement of its policies. Harvard, however, has breached the contract through ongoing failure to fulfill its obligations. For instance, the university has failed to prevent and address incidents of discrimination and harassment faced by Kestenbaum and the Jewish members of SAA. It has not ensured strict adherence to its policies and has not met the students' expectations concerning their entitled educational benefits.

Due to these breaches, Kestenbaum and the Jewish student members of SAA have suffered substantial, ongoing damages. The specific amount of these damages will be determined at trial.

**COUNT III: Breach of Implied Covenant of Good Faith and Fair Dealing**

The plaintiffs allege that Harvard University has violated the implied covenant of good faith and fair dealing inherent in its contracts with students, particularly those involving Kestenbaum and Jewish student members of the Student Alliance Association (SAA). The claim posits that Harvard inconsistently enforces its student handbooks, guidelines, and various regulations. The plaintiffs further assert that this selective enforcement is improperly driven by bias based on shared ancestry, race, ethnic characteristics, or national origin. They argue that Harvard deals more leniently with incidents of abuse, harassment, intimidation, or discrimination against Jewish students compared to incidents involving other minority groups. Consequently, Kestenbaum and Jewish student members of the SAA at Harvard have allegedly suffered substantial damages, the exact amount of which will be determined at trial.

**Prayer for Relief**

The plaintiffs seek a judgment against Harvard, requesting various forms of relief for alleged Title VI violations. They ask for an injunction to prevent Harvard from discriminating against Jewish students, including disciplinary actions against deans, administrators, professors,

employees, and students who participate in or allow antisemitic discrimination. This includes terminating or suspending those responsible, declining and returning donations conditioned on promoting antisemitism, and implementing mandatory antisemitism training. Additionally, they seek compensatory, consequential, and punitive damages, the amount of which will be determined at trial. The plaintiffs also request the coverage of reasonable attorney fees, lawsuit costs, and expenses, as well as pre-judgment and post-judgment interest at the maximum legal rate. Lastly, they ask for any other relief that the Court finds just and appropriate.

**CONDENSED COMPLAINT****UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS****ALEXANDER KESTENBAUM and STUDENTS AGAINST ANTISEMITISM, INC.,  
Plaintiffs<sup>11</sup>****V.****PRESIDENT AND FELLOWS OF HARVARD COLLEGE,  
Defendant.****PRELIMINARY STATEMENT**

1. Harvard University, acclaimed American educational institution, is accused of harboring severe anti-Jewish sentiments. Since Oct 7, 2023, following the tragic violence in Israel led by Hamas terrorists where around 1,200 individuals were killed brutally, Antisemitism at Harvard became prevalent. Pro-Hamas demonstrators, including students and faculty, openly engaged in anti-Jewish hostility across the campus causing immense distress to Jewish students. It's alarming to see the university's lack of action to halt this alarming behavior and penalize those involved.

2. Harvard has been allegedly practicing a discriminatory double standard against Jews. The institution turns a blind eye to Jewish students enduring harassment, employs professors who endorse anti-Jewish hostility, and disregards pleas from Jewish students for protection. Jewish students or advocates face threatening sentiments that are not punished, while the university mandates a training series covering a variety of other biases.

3. This discriminatory attitude mirrors the attitude of Harvard's top officials. A previous Harvard president was ousted for a controversial statement about women in sciences, while the recent president testified before Congress that anti-Jewish sentiment doesn't infringe Harvard's policies and was supported by Harvard's governing body. Following this testimony, the only Jewish member of Harvard's new Antisemitism Advisory Group resigned out of frustration. Plagiarism allegations and public outcry eventually led to the president's resignation.

4. Harvard has been clearly warned about the dangerous environment for its Jewish students, yet the university's response has been grossly inadequate. There is an alarming tolerance of antisemitic actions, with faculty members even cancelling classes for students to attend

antisemitic rallies. Students violating Harvard policies faced no repercussions, instead receiving support from university resources.

5. Increased antisemitic hostility was seen following the October 7 terrorist attack due to the institution's failure to enforce policies against antisemitism. Several members of Harvard have publicly shown support for the massacre, with no condemnation for those responsible. Attacks against Jewish students continue to occur, with little attention paid to other large-scale atrocities worldwide.

6. Harvard's defense, citing free expression principles to avoid disciplinary action against antisemitic behavior, further solidifies the anti-Jewish bias. Despite strict procedural responses to bias against other minority groups, Harvard has done little to protect Jewish students from similar aggression, raising queries about the university's sincere commitment to equality.

7. This prevalent antisemitic environment has impacted Jewish students, including their ability to participate fully in educational opportunities, resulting in emotional and physical risk. Furthermore, legislation affecting admission policies has significantly reduced the number of Jewish students, creating further isolation and danger for existing Jewish students.

8. This tacit endorsement and propagation of antisemitism violates Title VI of the Civil Rights Act of 1964. Remedial measures must be enforced, such as terminating complicit employees, enforcing disciplinary measures against students involved in such conduct, rejecting donations linked with anti-Jewish propaganda, instituting mandatory antisemitism training, and offering appropriate compensation for affected students.

## **PARTIES**

12. Plntff. Students Against Antisemitism, Inc. ("SAA") is a Delaware-incorporated, not-for-profit org. aimed at defending civil rights, including equal protection and freedom from antisemitism in higher ed. via litigation & other avenues.

13. Members of SAA are voluntary operatives, including students from higher ed. institutions, who support SAA's mission and have personally experienced or been affected by antisemitism and discrimination in higher ed. It includes current Jewish students at Harvard experiencing a hostile educational environment, resulting in loss of Harvard's educational and extracurricular privileges.

14. Plntff. Alexander Kestenbaum, Jewish, is a student in the Masters in Theological Studies program at Harvard Divinity School and a member of SAA.

15. SAA Member #1, Jewish, is a student at Harvard Law School.
16. SAA Member #2, Jewish, is a student at Harvard Law School.
17. SAA Member #3, Jewish, is a student at Harvard Law School.
18. SAA Member #4, Jewish, is a Ph.D. student at Harvard, taking courses at Harvard T.H. Chan School of Public Health.
19. SAA Member #5, Jewish, is a student at Harvard Law School.
20. Deft. President and Fellows of Harvard College is the legal entity of Harvard University, a private higher ed. institution based in Cambridge, Massachusetts.
21. Despite a gigantic endowment—approximately \$50.7 billion, the largest among US universities—Harvard is a recipient of significant federal financial aid comprising grants and loans, including \$642 million in FY 2022, \$676 million in FY 2023, and expects substantial aid in FY 2024, as well as indirect federal assistance through tuition paid with federal financial aid. Being a federal aid recipient, Harvard falls under Title VI jurisdiction.

#### **A. Title VI Protects Jewish Students Against Antisemitism**

22. Title VI bans race, color, or national origin discrimination in federally funded programs, including antisemitism.
23. Since 2004, OCR of the DOE investigates antisemitism related Title VI complaints. Its 2010 letter confirmed schools' obligations to address Anti-Semitic harassment creating hostile environments and take immediate action soon after such claims.
24. The Trump and Biden administrations have also stressed the necessity to fight antisemitism. Trump's 2019 Executive Order 13899 and the IHRA's definitions of antisemitism guide enforcement of Title VI. DOE's 2023 fact sheet reiterates Title VI's protections in light of increased anti-Semitic incidents.
25. Biden's 2023 strategy forms the most ambitious government-led antisemitism response. Followed by the Antisemitism Awareness Campaign launched by DOE reminding schools of their obligation under Title VI, eight federal agencies also confirmed Title VI's prohibition against anti-Semitic discrimination.



26. IHRA definition of antisemitism provides various examples, such as justifying Jews' harm, making demonizing allegations, assigning collective blame, Holocaust denial, discrediting loyalty of Jews, denying the Jewish right to self-determination, requiring discriminatory standards of Israel, using antisemitic symbols for Israel, and making Nazi comparisons.

27. As part of Jewish identity and tradition, Zionism comes from Jewish ethnic roots in Israel. Kestenbaum and SAA members, many being descendants of Holocaust survivors, identify significantly with Zionist identities.

28. Anti-Zionism becomes antisemitic when it adopts standards applicable only to Israel, denies Jewish self-determination rights, or aligns Israel with inherently racist or Nazi ideologies. As Dr. King stated, criticizing Zionists implies anti-Semitism.

29. Since October 7, 2023, overpowering anti-Israel sentiments at Harvard and other colleges show that anti-Zionism equates to antisemitism. Jewish students have faced accusations of being "murderers," "racists," "white supremacists," and more.

30. Hamas, a designated Foreign Terrorist Organization, promotes Antisemitism, seeking to eliminate Israel and its Jewish residents as per its 1988 charter.

31. Hamas has executed countless indiscriminate terror attacks on Israeli civilians, including bombings, shootings, and stabbings throughout two "Intifadas" and initiated numerous other attacks over the past 20 years.

#### B. Harvard Fails to Enforce Its Own Policies to Protect Jewish Students

32. Harvard has five policies aimed at protecting students from discrimination, including the Non-Discrimination and Anti-Bullying Policy, University-Wide Statement on Rights and Responsibilities, Free Speech Guidelines, Student Organization Policies, and student handbooks. Allegedly, Harvard does not apply these policies equally, ignoring protection for Jewish students against antisemitism.

##### i. Non-Discrimination and Anti-Bullying Policy

33-35. Harvard implemented a Non-Discrimination Policy and Anti-Bullying Policy on September 1, 2023, which applies to the entire Harvard community both on-campus and off-campus, including social media. Prohibited actions include discriminatory disparate treatment and discriminatory harassment based on protected characteristics. The policy notes that responsible bodies will carry out their duties with fairness, rigor, and impartiality. The policy also includes various measures to be taken in case of violations of the policy.

36-37. Schools within Harvard issue student handbooks that set out misconduct policies and procedures. These handbooks adopt versions of Harvard's Non-Discrimination Policy. Yet, despite these clear rules, Harvard allegedly treats Jews as undeserving of the same respect and protection it provides other groups.

ii. Statement on Rights and Responsibilities

38-38. Harvard's University-Wide Statement on Rights and Responsibilities protects individuals from personal force and violence, ensures freedom of movement, and emphasizes that interfering with these freedoms is considered a serious violation of personal rights.

iii. Free Speech Guidelines

39-41. Harvard's Free Speech Guidelines, supplement the Statement on Rights and Responsibilities, outline limits of protest and define disruption as repetitive or continuous action obstructing audience's hearing or viewing capability of an event. Racial and personal harassment is strictly considered as grave disrespect and is punishable.

iiv. Student Organization Policies

43-45. Harvard's Student Organization Policies come from its Student Organization Resource Guide and student handbooks. It asserts that student organizations cannot discriminate based on race, color, national or ethnic origin, or religion. However, Harvard has been accused of permitting unrecognized student organizations, like Harvard BDS and Harvard Afro, to conduct antisemitic protests using Harvard's name. These actions are alleged to harass Jewish and Israeli students in violation of Harvard's policies.

### **C. Harvard's Recent History of Antisemitism and Civil Rights Violations**

46. Harvard's history includes 1920s policy under President Lowell to reduce Jewish admission to make Harvard a "Gentile" college. This legacy has allowed a surge in antisemitism, particularly over the past decade, which has reached extreme levels in the post-October 7, 2023, terrorist attack.

47. The AMCHA Initiative's 2022 study ranked Harvard as the most antisemitic U.S. college. A Harvard student's 2023 thesis detailed extensive campus antisemitism, with many Jewish students reporting experiences of antisemitism and anti-Zionism.

48. Since 2010, many antisemitic incidents occurred, such as a 2015 "die-in" by the Harvard PSC in front of the Harvard Hillel building. Despite Harvard's policy against such interference,

faculty and administration members attended and supported the event. Later, a swastika was found at Harvard Law.

49. SJP, with a recognized chapter at Harvard, is a significant antisemitic force on campuses, receiving funding and training from AMP and universities. They organize antisemitic events and BDS campaigns against Israel, targeting Jewish students.

50. Several instances powerfully illustrate campus antisemitism, including 2016's incident where a student SJP leader insulted an Israeli politician at a Harvard Law event, without facing discipline.

51. In 2017's Israeli Apartheid Week, Jewish students were targeted with mock detention notices by Harvard PSC, co-signed by other student organizations.

52. In 2017, Harvard's Phillips Brooks House Association awarded Hamas supporter Nihad Awad the "Call of Service" Lecture and Award.

53-57. Harvard took no meaningful action against numerous antisemitic events like the swastika discovery at Harvard Public Health in 2018, the toppling of a menorah, antisemitic events during "Israeli Apartheid Week", the endorsement of Zionist racism by a KKK grand wizard, and the report of a blood threat delivered by a student to a Jewish Israeli student in 2021.

58-66. Harvard facilitated or ignored several antisemitic occurrences including vandalism at Harvard Hillel, pro-BDS events with speakers promoting antisemitic views, obstructive protests against Israeli Major General Yadlin, boycotting of Israel Trek, and prominent placement of antisemitic messages during convocation.

67-69. A Harvard professor intentionally discriminated against three Jewish Israeli students in his course, pressurizing them to change their project's reference to Israel as a "liberal Jewish democracy".

70-73. Investigations confirmed Professor Ganz's violation of Harvard policies. Despite this, Harvard has failed to take disciplinary action.

74-77. The decrease of Jewish student population, from 25% in 2013 to less than 10% in 2023, is linked to Harvard's worsening antisemitic environment. Harvard's continued silence and failure to discipline Ganz upon the Brandeis Center's complaints, further underscores its hostility towards Jewish students.

## **D. Harvard's Deliberate Indifference to Antisemitism Has Continued Despite Intense Anti-Jewish Harassment Post-Hamas Massacre**

78. Harvard's indifference and biased policy application fostered an environment where anti-Jewish harassment thrived post-Hamas's October 7 massacre, fueling further abuse.

### **i. October 7, 2023: Hamas Atrocities in Israel**

79. Hamas's unprovoked attack on Israel involved murder, torture, rape, violence, and kidnapping, killing 1,200 and abducting 200+, making it the deadliest day for Jews since the Holocaust. Hamas officials praised the massacre and threatened future attacks.

80. Harvard students and faculty members celebrated and justified the attacks, harassing Jewish students and objecting to measures against campus antisemitism. They falsely accused Israel of genocide, ethnic cleansing, and apartheid, while ignoring similar or worse actions by other nations.

### **ii. Harvard's Inaction and Student-Faculty Response**

81. After the massacre, Harvard remained silent instead of making a public statement, enabling further discrimination and harassment.

82. Various student organizations led antisemitic protests, disruptions, and harassment campaigns, calling for violence and the eradication of Jews.

83. A coalition signed a statement blaming Israel for the violence, with Harvard failing to suspend them, despite the outcry.

84. Harvard's delayed response criticized for neutrality towards violence against Jews, comparing unfavorably to the University of Florida's president's condemnation of Hamas.

85. SAA Member #2's plea for condemnation ignored by Harvard's President, suggesting mental health services instead.

86. Faculty defended Hamas, blamed Israel, promoted rallies, and stifled attempts to address antisemitism.

87. Harvard later condemned terrorist atrocities but not the related student statement, facing backlash for inaction.

### **iii. Escalating Antisemitic Campus Disruptions**

93. Faculty and students' protests became increasingly aggressive, intimidation intensified.

94. Rallies falsely labeling Israel as committing apartheid and genocide violated Harvard policies.

96. Die-In protest falsely accused Israel of bombing a hospital; organizers harassed and assaulted Jewish students, with no disciplinary action from Harvard.

99. Disruptions during classes with speakers on Jewish or Israeli topics like Jason Greenblatt led Jewish students to hide their identity out of fear.

100. Jewish students' reports of harassment were unaddressed, and they faced locked administrative offices during protests.

102. Protests continued unabated with Harvard's passivity, disrupting Jewish students' academic environment.

#### iv. Faculty-Endorsed Discrimination and Harassment

131. Harvard faculty and teaching fellows supported harassment and discrimination against Jews.

132. Faculty canceled classes to enable student participation in anti-Israel protests.

133. Teaching fellow Bharmal, who assaulted a Jewish student, faced no discipline.

134. SAA Member #1 and other Jewish students faced challenges in classes with professors espousing anti-Israel sentiments.

#### v. Testimony at the House Antisemitism Hearing

141. President Gay's testimony at the House indicated Harvard's indifference, as she couldn't confirm genocide calls violate policy.

142. Representative Stefanik's interaction with President Gay at the hearing showed the president's reluctance to definitively oppose calls for genocide against Jews on campus.

#### vi. Full Investigation and Continued Backlash

146. The hearing's testimony led to public and congressional backlash, including a demand for presidents' removal from universities failing to act against antisemitism.

148. Resignations and statements from Antisemitism Advisory Group members criticized Harvard's inaction.

149. Congress members called for university leaders' removal due to their problematic handling of campus antisemitism.

150. Harvard's body reasserted its support for President Gay, acknowledging poor initial response but promising intolerance for violence calls and class disruptions—an unfulfilled commitment.

151. President Gay resigned due to plagiarism accusations amidst intolerance for antisemitism.

152. Harvard condemned the attacks on Gay but failed to express similar concern for campus antisemitism.

#### **E. Harvard's Double Standard Towards Addressing Antisemitism**

153. Harvard's apparently indifferent attitude towards antisemitism discourages Kestenbaum, Jewish SAA members, and other Jewish students, as it contrasts its rapid, decisive response to bias-incidents that involve non-Jewish victims. This can be seen in Harvard's tendency to dismiss anti-Jewish harassment, claiming the importance of free expression, while taking firm actions against non-Jewish discrimination. Evidences for this include inconsistent application of free expression principles, disciplinary actions against teachers and learners, official statements on bias or social issues, and programs.

154-156. Harvard's discriminatory application of the principles of free expression positions the campus as a safer space for non-Jewish minority groups. The university's referencing of these principles to justify tolerating antisemitic harassment contrasts sharply with the declared free speech principles of the Foundation for Individual Rights and Expression, which ranks Harvard last out of 248 colleges. Despite its tolerance of antisemitism, Harvard quickly censors controversial discussions unless they express antisemitic views.

157-158. Harvard has been quick to take forceful action against acts of prejudice against non-Jewish groups, even without harassment or violence, such as public efforts to denounce the use of a slaveholder's family crest, changing the title "house masters" due to its connotations with

slavery, and allocating millions for programs to combat their institutional racism. However, whenever it comes to acts of anti-Jewish discrimination, Harvard refers to principles of free expression as an excuse for their inaction.

159-162. While Harvard promotes a more inclusive campus culture, this initiative tends to exclude Jewish students. This is seen in an AMCHA Initiative study, which point out a double standard where different behaviors apply to Jewish students and other minorities. This is evident in Harvard's differential response toward global conflicts and social justice issues that they consider important. For instance, they react strongly to racist police killings, and Russia-invaded Ukraine, but respond differently to a massacre by Hamas.

163-168. Harvard normally disciplines faculty members expressing discrimination or harassment, unless these statements are antisemitic. There are numerous cases of Harvard introducing disciplinary measures against faculty members who hold discriminatory or unpopular views, but this promptness is not extended to faculty members who display antisemitic behavior.

169-171. Similarly, Harvard quickly disciplines students violating its policies or engaging in discrimination when the targets are non-Jewish groups. In several cases throughout its history, Harvard has punished students for various violations, from illicit parties to prejudiced behavior. However, their disciplinary response is significantly different when it comes to antisemitic incidents.

#### **F. Plaintiffs Are Being Denied Equal Access to Harvard's Educational Opportunities**

172. Kestenbaum and Jewish student members of SAA claim to be treated as second-class citizens at Harvard due to their Jewish identities. They perceive unjust treatment by Harvard, including denial of protections such as physical safety, emotional support, inclusion, participation in activities, freedom of Jewish expression and support for Israel, which are afforded to non-Jewish students.

173. They allege discrimination as they are made to feel less important and are subjected to taunting, harassment, intimidation, and discrimination by students and faculty members with impunity.

174. They claim to fear harassment, discrimination, and intimidation from professors, leaders, and other students, inhibiting their ability to focus and take full advantage of their education.

175. This perceived antisemitism inhibits their full participation in non-classroom activities. Kestenbaum, the only Orthodox Jewish student at Harvard Divinity, feels too fearful to

participate in Jewish activities or those of other cultures and feels treated as a target of abuse due to his visible Jewish identity.

176. The perceptions of targeted abuse extend to SAA's Jewish members who also publicly display their Jewish identities.

177. The antisemitism and lack of administrative response have significantly impacted SAA Member #1's academic and social engagement, and ability to attend class. Claims of intimidation include forcing anti-Israel stances in exams.

178. SAA Member #2, conspicuously Jewish through her public displays, feels vulnerable, isolated, and missed class due to safety concerns from escalating antisemitic protests.

179. SAA Member #3 alleges similar feelings of being subjected to the same isolation, disturbances, and forced study changes due to incessant antisemitic protests.

180. SAA Member #4 has given up hope of resolution after multiple unresolved reports of anti-Jewish bias to administrators, particularly after Chief DIB Officer Barbosa admitted a lack of expertise in antisemitism.

181. SAA Member #5 alleges marginalization due to his Jewish identity, experiencing ostracisation, fear for his physical safety, and resulting missed classes because of the campus's antisemitic climate.

182. The Jewish student members of SAA describe a consistent battle against perceived antisemitism, hindering their academic and social experience at Harvard.

183. They argue that Harvard's actions and inactions have led to the deprivation of their right to educational and extracurricular opportunities, causing academic, social, and professional consequences while severely impacting their mental well-being and sense of security.

## **COUNT I**

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.  
(Intentional Discrimination and Hostile Environment Towards Jewish Students)

184. Pltfs. restate & reallege prior allegations as though fully stated herein.

185. Harvard receives financial aid from US Dept. of Educ., subj. to Title VI.



186. Discrim. against Jews/Israelis based on ancestry, race, ethnic char., or nat. origin prohibited under Title VI & US Dept. of Educ. Office of Civil Rights policies.

187. Kestenbaum identifies as Jewish, covered by Title VI. SAA includes Jewish students at Harvard, also covered.

188. Title VI forbids federally funded entities from intentional worse treatment due to ancestry, race, ethnic char., or nat. origin.

189. Harvard & its admins., through acts/omissions, subj. Kestenbaum & Jewish students to discrimination & harassment due to actual/perceived Jewish ancestry/race/ethnic char./nat. origin.

190. Harvard had notice of & control over severe, pervasive, objectively offensive discrimination creating a hostile environment inhibiting access to educational opportunities for Jewish students.

191. Harvard displayed deliberate indifference to antisemitism violating Title VI by not addressing the hostile environment for Jews.

192. Hostility for Jewish students based on ancestry/race/ethnic char./nat. origin deprives them of equal access to education compared to non-Jewish students.

193. Harvard patterns severe/pervasive discrimination.

194. Discrimination with Jewish ancestry/race/ethnic char./nat. origin as substantial/motivating factor in Harvard's actions.

195. Harvard inadequately, discriminatorily, leniently, indifferently, and with delay treats reported antisemitism, especially involving Jewish/Israeli students.

196. Harvard's Title VI violations causally related to Jewish students' injuries.

197. Kestenbaum & Jewish students suffered damages due to Harvard's actions.

198. Continued injuries due to Harvard's ongoing discrimination.

199. Plaintiffs seek injunctive relief under Title VI due to Harvard's deliberate indifference to persistent hostile environment with no adequate/speedy legal remedy, causing irreparable harm.

200. Plaintiffs entitled to attorneys' fees & costs per 42 U.S.C. § 1988.

**COUNT II**

## Breach of Contract

201. Pltfs restate preceding paragraphs allegations as if fully set forth herein.

202. At all times, an express contract existed btwn Harvard and Kestenbaum and SAA Jewish student members by enrollment and defined through Harvard's written codes, policies, and procedures, incl. Non-Discrimination Policy, Statement on Rights and Responsibilities, Free Speech Guidelines, Student Org Policies, and student handbooks. Harvard makes contractual commitments to students on safety, bias-related abuse, harassment, intimidation, discrimination.

203. Under contracts, Kestenbaum and the SAA Jewish student members agreed to pay tuition, and Harvard to provide a discrimination-free environment, to be upheld by enforcing its policies.

204. Kestenbaum and the SAA Jewish student members have fulfilled their contractual obligations.

205. Harvard has breached its contracts with Kestenbaum and SAA Jewish student members by failing to comply with its obligations, including not addressing, preventing, or punishing the discriminatory/harassing conduct they endured, not enforcing its policies, and not meeting their educational benefit expectations.

206. Due to Harvard's breaches, Kestenbaum and SAA Jewish student members have sustained and continue to sustain substantial damages, to be determined at trial.

**COUNT III**

## Breach of Implied Covenant of Good Faith &amp; Fair Dealing

207. Plntfs reincorporate previous paragraphs by reference.

208. Harvard has violated the implicit covenant of good faith and fair dealing within its student contracts, including those with Kestenbaum and SAA's Jewish student members. Harvard unevenly administers or enforces its student handbooks, guidelines, policies, procedures, course catalogs, registration materials, bulletins, circulars, and regulations—with bad faith and discriminatory intentions based on ancestry, race, ethnicity, or national origin—addressing abuse, harassment, intimidation, or discrimination against Jewish students, including Kestenbaum and SAA's Jewish members, less seriously than similar acts against other minorities.

209. Due to Harvard's breaches, Kestenbaum and SAA's Jewish members suffer ongoing substantial damages, to be quantified at trial.

**Prayer for Relief**

- A. The plaintiffs request an injunction to prevent Harvard from violating Title VI, specifically against policies or practices that discriminate against Jewish students. This includes terminating or disciplining staff and students involved in antisemitic acts, refusing and returning donations linked to antisemitism, and implementing mandatory antisemitism training.
- B. They seek compensatory, consequential, and punitive damages, to be determined at trial.
- C. The request includes reasonable attorneys' fees, costs of the suit, and related expenses.
- D. They ask for pre-judgment and post-judgment interest at the highest rate allowed by law.
- E. Finally, they seek any other relief deemed just and proper by the Court.