

Legal

ANALYZE • EMPOWER • FIGHT BACK

Know Your Rights!

Record evidence.

Challenge what you think are antisemitic

or anti-Israel activities.

Require that your school's

administration follow its own rules.

Ask for help. We're here to help you.

While we hope that this booklet is helpful, you do not need to figure out how to respond to anti-Israel or antisemitic activity on your own.

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Navigating School Administrative Systems

Responding to antisemitic and anti-Israel activity can be difficult, but there are substantial resources to help and support you through the administrative process. Research your school's policies and bylaws for relevant rules. Collect evidence of violations. While many schools employ the same general language (adopted from the Constitution), you must adhere to your *particular* school's policies.

Where to find your school's policies:

- Online: Most codes of conduct, administrative procedures, and other related documents can be found on the administration or student services pages. Useful search terms on your school's website may include: "code of conduct," "campus code," "student constitution," or "student bylaws."
- Booklets: Most schools have physical copies of their codes of conduct, rules, and administrative procedures available in the administrative offices.

Using Campus Laws to Fight Anti-Israel Activity

After the UC Davis student senate passed a resolution in favor of divestment from Israel, two pro-Israel students appealed to the student court. The students challenged the constitutionality of the resolution, using language found in the UC Davis student government constitution. They successfully argued that the student constitution required that senate legislation pertain only to matters of student welfare—not unrelated political issues. The divestment resolution was overturned by the court.

SAFEGUARD Your Rights

If you are experiencing antisemitic or anti-Israel activity that you believe is in violation of school policy, the following are some steps you can take to safeguard your rights and those of fellow students.

Contact campus administration, ideally by email so there
is a written record. If meeting with an administrator in
person, write a follow-up email to him or her summarizing
your discussion.

Many schools have a campus ombudsperson, who serves as a confidential intermediary to inform students of potential courses of action and to help navigate administrative procedures. Note that he or she generally does not provide the school with "official notice" of your complaint.

- If you or anyone you know experiences physical threats or violence as a result of antisemitic or anti-Israel activity, immediately contact campus police and local law enforcement.
- **3.** If you do not know where to find your school's policies, how to pursue these policies, or have any other related questions, we can help you.

For More Information, Visit www.standwithus.com/Legal

Free Speech

The First Amendment provides that "Congress shall make no law... abridging the freedom of speech." This means that you have the right to express your opinions without being censored or restrained.

- First Amendment protections extend to all individuals in the United States, regardless of age, citizenship, or immigration status.
- The First Amendment protects your right to free speech only from government interference.
- Private parties, including corporations and private schools, may interfere with those same rights and freedoms, although there are some limitations.
 This distinction between government and private interference is important.
- Public schools may not violate the First
 Amendment's protections of free expression because they are considered government entities.
- Private schools have more leeway to restrict or even prohibit free speech because they are not government entities. However, many private universities have chosen to adopt First Amendment principles regulating campus

speech, and some states have extended First Amendment protections to private universities.

- Even though public universities must respect the First Amendment, they may impose reasonable time, place, and manner restrictions on expression.
- Student speech or expression may be prohibited if it disrupts or interferes with other students' rights to learn, speak, associate, or assemble.
- The First Amendment protects a student's right to listen and a visiting speaker's right to speak. When anti-Israel advocates disrupt pro-Israel events, they likely violate constitutional rights and university policy.

Disruptive Student Speech Is Prosecuted

In February 2010, Michael Oren, Israel's Ambassador to the United States, attempted to address students at UC Irvine. Anti-Israel students, mostly members of the Muslim Student Union, repeatedly interrupted Mr. Oren to prevent him from speaking. They ignored requests from university officials to maintain civility. As a result, 11 of these students – known as "the Irvine 11" – were arrested for disrupting Mr. Oren. Ten of them were convicted of public disruption and conspiracy to disrupt. The administration placed the Muslim Student Union on two years of probation and temporarily revoked the club's charter.

When Can Government Restrict Speech?

The government can restrict speech on the basis of its content and where the speech is occurring.

Examples of speech that may be prohibited because of its CONTENT:

- **Defamation:** One cannot make false statements about another if those statements damage another's reputation. If a defaming statement is spoken, it is **slander**; when written, it is **libel**. Despite this general rule, defamation may be allowed if directed at public figures or if it pertains to matters of public concern.
- **Incitement:** Confrontational words or threats intended to incite immediate violence are generally prohibited.
- Violating intellectual property rights: Copyrights, trademarks, and patents generally grant the creator or owner the exclusive right to use or distribution. Violation of these rights is unconstitutional.

Rules governing speech based on WHERE it occurs:

- Open Public Forums: Speech occurring in places with long traditions of free expression, like sidewalks or public parks, are given the highest constitutional protection.
- Non-Public Forums: The government may impose reasonable restrictions to limit speech in places traditionally closed off to public expression, like courthouses, jails, or government offices.

Anti-Israel Student Flyers Removed

At Florida Atlantic University, mock eviction notices (stamped with the official logo of the university's housing and residential life department) were placed on over 200 student dormitories. Although students have a right to distribute leaflets, many universities have policies against distributing them in dorms. Also, the use of an official university logo violated school policy because it implied the university supported the leaflets' anti-Israel message. When the university became aware of this, it publicly condemned the leaflets and removed them.

 Designated Public Forums: The government may restrict access to certain types of speakers or subjects in places with designated public purposes – like universities, which are primarily dedicated to educating students.

Viewpoint Discrimination: A university may not deny funding for an event it would otherwise fund because it does not agree with the viewpoint advocated at the event. For instance, if your school funds an anti-Israel event but denies funding for a pro-Israel event in an attempt to suppress that particular view, the school is likely in violation of the First Amendment.

The First Amendment provides **significant legal protection** to **lawful** student speech, on or off campus, that does not seriously interfere with normal school activities.

Academic Freedom for Teaching

"Academic Freedom" means that faculty members have a right to develop and espouse original and controversial ideas. However, according to professional standards, professors should avoid teaching controversial matters that have no relation to the subject(s) they teach.

- The U.S. Supreme Court held that a university may determine for itself, on academic grounds: who may teach; what may be taught; and how it should be taught. You may appeal to your university administration if you believe a professor is teaching outside the scope of his or her professional specialty (for instance, if your chemistry professor is repeatedly lecturing your class about the Arab-Israeli conflict).
- While "academic freedom" is an ambiguous term that requires case-by-case interpretation, it is widely understood that political indoctrination is distinct from "teaching" and often not protected by the doctrine of academic freedom.

Professor Not Hired Due to Unprofessional Anti-Israel Conduct Dr. Steven Salaita expected to begin teaching at the University of Illinois Urbana-Champaign in fall 2014, but the university revoked his invitation due to his antisemitic and anti-Israel tweets during the 2014 Gaza war. When Dr. Salaita invoked the doctrine of academic freedom in his defense, the university replied: "Dr. Salaita lacks the judgment, temperament and thoughtfulness to serve as a member of our faculty in any capacity, but particularly to teach courses related to the Middle East."

Anti-Israel Course Canceled

A biology professor and virulent anti-Israel activist at the University of Missouri sought to teach an honors tutorial, titled "Perspectives on Zionism." A school committee approved the course despite the professor's lack of any relevant academic background. After receiving a coalition letter by pro-Israel groups, the university canceled the course and changed its policies.

How to challenge antisemitic or anti-Israel professors claiming the protection of academic freedom:

- Challenge a professor's false, misleading, or discriminatory statements by asking targeted questions;
- If permitted by school policy, record your professor as evidence that he or she is engaging in political indoctrination instead of teaching or is teaching outside the scope of his or her qualifications;
- Bring your concerns and any evidence to the attention of the administration or to outside organizations.

Grade retribution: If you are concerned that your professor has unfairly lowered or will unfairly lower your grade because you are challenging antisemitic, anti-Israel, or hate speech, maintain written evidence of your concerns and any correspondence with the professor. Reach out for help.

Hate Speech

Hate speech attacks a person or group because of an immutable characteristic, such as gender, ethnicity, religion, national origin, race, disability, or sexual orientation. While hate speech is generally protected by the First Amendment, it may be **restricted if it threatens or incites violence**. If hate speech occurs during the commission of a crime, it becomes a hate crime.

- Anti-Israel and anti-Jewish statements on campus may be a form
 of hate speech. Even though hate speech may be constitutionally
 protected, you are not powerless in confronting it. You can
 demand that your campus administration condemn hate speech. You
 can personally condemn it. You can also bring the hate speech to the
 attention of outside organizations in order to raise public awareness
 and counter the false messages embedded in hate speech.
- RECORD ALL EVIDENCE!
 If you see or hear hate speech, take screenshots of it, save e-mail exchanges, take photos and videos, and keep leaflets or flyers.
- When hate speech occurs, look for campus policies about hateful statements.
 Hold your school accountable to those policies. A university can be liable for breach of contract if it does not enforce its policies against hateful speech.

Campus Hate Speech Violates School Policy

Every school has a code of conduct regulating student behavior and student group activity. These rules are an effective tool to fight hate speech on campus. For instance, Students for Justice in Palestine (SJP) at Vassar College posted an antisemitic Nazi propaganda poster on its Tumblr account. After complaints from pro-Israel students, the SJP chapter was investigated for a "bias incident" and temporarily suspended as an official student group. The Tumblr post was removed.



Guidelines on responding to anti-Israel and antisemitic content on the Internet

FLAG Many sites, such as YouTube, allow users to flag offensive content for review. Many sites also allow you to say why you thought something was offensive – in these cases, make sure to include detailed comments.

RECORD Take screenshots of offensive content.

KNOW

SPEAK Post videos or comments that oppose the offensive point of view. Let the online community see a competing perspective.

SUPPORT Don't forget to post positive comments that share positive messages about Israel and about Jews.

Know the online platform you are using. Look for a site's **Terms of Service** or **Community Guidelines**. Find out about the kind of site the company wants to run—many say that they do not wish to host hateful content. **Hold the site accountable to its policies.** For instance, Facebook has an online policy prohibiting hate speech. If you flag offensive content, you can get the content or the Facebook account on which it appears taken down.

Many websites and social networking sites voluntarily agree to exercise corporate responsibility and limit the hateful content their websites can display. In such cases, users should speak out firmly against the hate they encounter on those sites and demand that sites live up to their stated Terms of Service or Community Guidelines.

Antisemitism

The United States Department of Education has adopted a definition of antisemitism, which includes: advocating the murder of Jews, Holocaust denial, accusing Jews of fabricating the Holocaust, and accusations of dual loyalty (that is, claiming Jews are more loyal to Israel and to the Jewish people than to their countries of residence).

Combating Antisemitic Speech on Campus

Students for Justice in Palestine chapters often bring a so-called "apartheid wall" to campus. The wall consists of large painted panels featuring false and misleading accusations against Israel and sometimes even antisemitic language. At Arizona State University, a Jewish student noticed that an apartheid wall panel depicted Nazis detaining, harassing, and humiliating Jews during the Holocaust. The wall compared these Nazi crimes to contemporary activities of the Israeli army. The student wrote a letter to his student senators stating that the panel was antisemitic. As a result, the offending panel was removed

The Department of Education definition of antisemitism also includes examples of anti-Israel speech that may be considered antisemitic speech.

The suggested guidelines are:

Delegitimization

Speech that denies Israel's right to exist or denies the Jewish people's right to self-determination is antisemitic. This includes speech that calls for the "one-state solution."

Demonization

Using symbols and images associated with classic antisemitism, such as swastikas and Nazism, to characterize Israelis or Israel is antisemitic.

Double Standards

Holding Israel to standards not demanded of any other country is antisemitic. This includes accusing Israel of human rights violations for civilian casualties in armed conflict while considering similar levels of civilian casualties permissible for other countries' operations.

Criticism of Israel similar to that leveled against any other country is not antisemitic.

Excerpt from the University of Arizona Nondiscrimination and Anti-Harassment Policy

"Discrimination"

occurs when an individual, or group of individuals, is treated adversely because he or she belongs to a classification of individuals that is protected from discrimination by a federal or state statute or university policy.

"Harassment"

is a specific form of discrimination. It is unwelcome behavior, based on a protected classification, that a reasonable person would perceive to be sufficiently severe or pervasive to create an intimidating, hostile, or offensive environment for academic pursuits, employment, or participation in university-sponsored activities.

Harassing conduct may take many forms,

including verbal acts, name-calling, as well as nonverbal behavior, such as graphic, electronic, and written statements, or conduct that is physically offensive, harmful, or threatening.

Reach Out

If You Are The Observer Or
Subject Of Harassment.

Harassment

When harassment places someone in fear of imminent bodily harm, it is considered criminal assault. When harassment includes unwanted or offensive touching, it is considered battery. Both assault and battery are misdemeanors. Examples include spitting or ripping clothing.

- Harassment does NOT have to include intent to harm or involve repeated incidents.
- Most universities have anti-discrimination and antiharassment policies to protect students from harassment by others. The code serves as a contract between the students and university.
- If anti-Israel students falsely accuse pro-Israel students
 of discrimination in violation of campus policy, this may
 constitute harassment. Pro-Israel students should report
 harassment when it occurs and stand up to false
 accusations of harassment or discrimination.

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Title VI

Title VI of the *Civil Rights Act of 1964* is a federal law prohibiting discrimination on the basis of race, national origin, or color in programs receiving federal funding. Title VI applies to nearly every public and private university and is enforced by the U.S. Department of Education's Office for Civil Rights. **University programs and activities receiving federal funds must operate in a non-discriminatory manner or risk losing their funding.**

- In 2004 and again in 2010, the Office for Civil Rights extended Title VI protections to students discriminated against based on their actual or perceived ancestry or ethnic identity as Jews.
- We can help you to rise to the level of a Title VI claim, the
 antisemitic harassment must create a "hostile learning
 environment." The offending conduct must be so severe,
 persistent, or pervasive that it interferes with or limits a
 student's ability to participate in or benefit from school
 programs or opportunities.

StandWithUs can help you file a Title VI claim.
You do not have to do this alone.

Jewish Students at Brooklyn College Successfully Resolve a Title VI Claim

In 2013, Brooklyn College sponsored an anti-Israel event. At the event, an outside supporter of the Students for Justice in Palestine group falsely alleged that four Jewish students were being disruptive and had them forcefully expelled from the event. The students subsequently appealed to the administration, seeking redress, and were ignored. In response, the Zionist Organization of America (ZOA) filed a Title VI action against Brooklyn College. After an investigation and mediation, Brooklyn College publicly apologized to the four students and implemented new policies to avoid future discrimination.

Important Notes

- You generally have only six months from the date of the incident to file your claim.
- You may report your claim anonymously.

If discrimination is encouraged, tolerated, not adequately addressed, or wholly ignored by your school's administration, you may have a Title VI claim. This is an important right, and we can help you understand how to protect yourself.

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Filming on Campus

You generally have a right to film on a public university campus and to film people who do not have a reasonable expectation of privacy.

- If people are making an effort to hide themselves or hide their activities in public, they are claiming an expectation of privacy. They should not be filmed or photographed unless you obtain their permission.
- Private universities have the right to ban filming and usually require a permit. Laws vary by state.
- A speaker at a public event on a public campus may ask you not to film him or her, in which case you should not. Likewise, you may not record copyrighted materials, like films shown at movie screenings.

Videoing on Campus Leads to Prosecution of Anti-Israel Activity

Filming was critical to the success of the "Irvine 11" case (see page 7). A StandWithUs videographer recorded the disruptive behavior during Ambassador Michael Oren's speech. The video captured the pleas of university officials who asked the students to refrain from disrupting. Most importantly, the video displayed the disruptive students chanting, "We did it," in the hallway after their protest, which helped to show conspiracy and intent to disrupt.

- A public official can stop you from filming in public by claiming reasonable time, place, and manner restrictions. If filming on a public campus is disruptive to classes, takes place at an inconvenient time, or is conducted in an offensive manner, then officials can stop you. However, if their "time, place, and manner" claim is unreasonable, it will not stand. Officials and police must have a warrant to seize a video or a photograph or to order its deletion.
- A university official may ask a community member unaffiliated with the school to leave campus, in which case that person must leave or be in violation of trespassing. Laws vary by state.
- Each public campus has its own policies regarding filming inside campus spaces, such as in a classroom. The school must apply the policy consistently; it cannot pick and choose who may film based on the subject matter. If you plan to record, understand your school's policy on recording in the classroom and abide by it. If you have a T.A.'s or a professor's permission to record, try to get the permission in writing or on video.



StandWithUs is an international, nonprofit, nonpartisan, educational organization dedicated to informing people of all ages and faiths about Israel. StandWithUs was established to share Israel's rich history and gifts with the world and to counter misinformation. Through our offices in five countries, StandWithUs has become a well-known resource for accurate information about Israel. By providing cutting-edge speakers, conferences, print and internet materials, curricula for teachers, social media campaigns, internships for young adults, funding, and missions to Israel, StandWithUs engages and empowers middle and high school teens, college students, and community members around the world to stand up for Israel.

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