



Addressing Antisemitism without Adopting the Controversial IHRA

Definition: *Growing field of legal scholarship to defend Jews from this definition*

Recent Legal Challenges to the IHRA Definition

Together for an Inclusive Massachusetts is a coalition of over 40 groups representing Jewish, Muslim, labor, education, civil rights and other organizations and individuals advocating for justice and equity in the Commonwealth. Our goal is to work collectively to ensure that Massachusetts local and state policy makers address antisemitism using an anti-racist, solidarity framework. We reject partisan efforts to exclude Jewish people who are critical of Israel or to redefine antisemitism in a way that harms Palestinians.

The IHRA definition is widely disputed and controversial.¹

While it has many institutional supporters, the IHRA definition is far from a “consensus” definition of antisemitism and is opposed by leading Jewish, civil liberties, and human rights organizations including its lead drafter who explained its origin and its early “[abuse of the definition](#)” in 2010 and frequently speaks out against the way it is being used to [silence legitimate debate](#).² Legal scholars also published a guide “[Defending Jews From the \[IHRA\] Definition of Antisemitism](#)”.³

- More than 300 scholars (many Jewish) of Holocaust Studies, Antisemitism, Jewish History endorsed [a rejection](#)⁴ of the IHRA definition and [128 scholars](#)⁵ of antisemitism who urged the UN not to adopt it.

¹ Foundation for Middle East Peace, Challenging the IHRA Definition of Antisemitism: Expert views and other resources laying out concerns/objections to the IHRA definition of antisemitism and related legislation. https://docs.google.com/spreadsheets/d/19zAdT920Sd-KHnvdP6BhXIBGwofGbzgWbGF65f_V7ZI/edit?gid=1184373771#gid=11

² Kenneth Stern, *A Bad Deal: By Adopting the IHRA Definition of Antisemitism, Universities are Sacrificing Academic Freedom*, Knight First Amendment Institute at Columbia University, September 5, 2025. <https://knightcolumbia.org/content/a-bad-deal-why-using-the-ihra-definition-of-antisemitism-on-campus-is-incompatible-with-academic-freedom-and-students-right-to-open-inquiry>.

³ Itamar Mann and Lihi Yona, *Defending Jews From the Definition of Antisemitism*, UCLA Law Review, December 23, 2024. <https://www.uclalawreview.org/defending-jews-from-the-definition-of-antisemitism/>

⁴ Jerusalem Declaration on Antisemitism, <https://jerusalemdeclaration.org/>

⁵ 128 scholars warn: ‘Don’t trap the United Nations in a vague and weaponized definition of antisemitism’. Nov 3, 2022. <https://media.euobserver.com/9e86df02ddf67c6046d190b65e4380df.pdf>

- [More than 100 civil society groups](#), including Human Rights Watch, Amnesty International, the ACLU, B'Tselem, and the Palestinian Centre for Human Rights urged the U.N. not to adopt it.⁶
- [Harvard University scholars of Jewish studies](#) filed an amicus brief in Harvard's federal lawsuit that Harvard's adoption of the IHRA definition not only misrepresents Jewish diversity, they violate Title VI of the Civil Rights Act by subjecting Jews to harmful stereotypes about what constitutes "authentic" Jewish identity.⁷
- The [American Civil Liberties Union](#),⁸ the [Center for Constitutional Rights](#),⁹ the [National Lawyers Guild](#),¹⁰ and [Palestine Legal](#)¹¹ call it a threat to free speech.
- [The American Association of University Professors](#) condemned it as a threat to academic freedom.¹²
- Dozens of U.S. Jewish organizations including [Union for Reform Judaism, the Central Conference of American Rabbis, and Women of Reform Judaism](#) say it should not be codified into law.¹³

Adopting the IHRA definition would create a legal nightmare.

There are no legally binding definitions for other forms of ethnic, racial or religious discrimination in MA antidiscrimination law. Singling out antisemitism for definition would create a legal anomaly that could only be fixed by attempting to define all forms of

⁶ *Human Rights and other Civil Society Groups Urge United Nations to Respect Human Rights in the Fight Against Antisemitism*, Apr 4, 2023. <https://www.hrw.org/news/2023/04/04/human-rights-and-other-civil-society-groups-urge-united-nations-respect-human>

⁷ Barry Trachtenberg, Victor Silverman, Atalia Omer, Raz Segal, Rebecca T Alpert and Judith Butler, *Harvard appears to think all Jews support Israel. That is discriminatory*, The Guardian, Jun 12, 2025. <https://www.theguardian.com/commentisfree/2025/jun/12/harvard-jews-srael-discriminatory>

⁸ ACLU, *Reject Definitions of Antisemitism that Encompass Protected Speech*, Feb 6, 2024. <https://www.aclu.org/documents/reject-definitions-of-anti-semitism-that-encompass-protected-speech>

⁹ Center for Constitutional Rights, *Letter: Civil Rights Groups Demand DOE Reject IHRA Definition of Antisemitism*, Jan 18, 2024. <https://ccrjustice.org/letter-civil-rights-groups-demand-doe-assistant-secretary-marcus-end-attacks-free-speech>

¹⁰ ACLU, Americans for Peace Now, Center for Constitutional Rights, Foundation for Middle East Peace, and Palestine Legal, along with 37 other organization signatories. *Letter to Co-Sponsors of Proposed American Bar Association Resolution 514 on Antisemitism*, Jan 19, 2023. <https://www.aclu.org/documents/letter-co-sponsors-proposed-american-bar-association-resolution-514-antisemitism>

¹¹ Palestine Legal, *Backgrounder on Efforts to Redefine Antisemitism as a Means of Censoring Criticism of Israel*, updated Jan 2020. <https://palestinelegal.org/redefinition-efforts>

¹² American University of University Professors, *Legislative Threats to Academic Freedom: Redefinitions of Antisemitism and Racism*, Mar 2022. <https://www.aaup.org/report/legislative-threats-academic-freedom-redefinitions-antisemitism-and-racism>

¹³ *Reform movement: IHRA definition of anti-Semitism is helpful but should not be codified into law*, Jewish Telegraphic Agency, Jan 25, 2021. <https://www.jta.org/2021/01/25/united-states/reform-movement-ihra-definition-of-anti-semitism-is-helpful-but-should-not-be-codified-into-law>

discrimination as well. Adoption of the IHRA definition threatens [Constitutional protections](#) against state establishment of religion by setting boundaries of Jewish identity, belief, and belonging.¹⁴

The adoption of the IHRA definition of antisemitism by government and private institutions has resulted in these institutions interpreting criticism of Israel or Zionism and education about or advocacy for Palestinian rights as a form antisemitic hate speech in schools, higher education, policing, work place and others. Some of these repercussions resulted in federal lawsuits where judges have called out the instrumentalization of that definition to infringe on civil rights and as a tool of censorship. Some of the most recent cases include:¹⁵

- [Khalil v. The Trustees of Columbia University in the City of New York \(1:25-cv-02079\)](#) (March 2026)

*"As to their First Amendment challenge to Columbia's revised anti-discrimination policy, plaintiffs have adequately pleaded each of the necessary elements to establish an injury in fact for the purposes of Article III. First, plaintiffs' desire to engage in 'public debates about Palestine and Israel' involves a course of conduct tied to a First Amendment interest...Second, plaintiffs' contemplated speech is arguably proscribed by Columbia's revised anti-discrimination policy...Third, the two plaintiffs alleged to be current Columbia students have demonstrated that they face a credible threat of enforcement...Having shown a cognizable injury-in-fact through a threat of specific future harm, those two plaintiffs must also plausibly allege causation and redressability. Causation is satisfied because they plausibly allege that the Agency defendants coerced **Columbia to adopt a definition of antisemitism through which it would punish and suppress plaintiffs' political speech.**"*

Vullo analysis: "For the reasons discussed above, both the February 13 and March 13 letters 'could be reasonably understood to convey a threat of adverse government action in order to punish or suppress the plaintiff's speech,' so plaintiffs have stated their Vullo claims against the Agency defendants and Columbia. Indeed, other courts have upheld similar Vullo claims...the Agency defendants claim there's no coercion because 'the demands in the March 13 Letter do not align with the actions taken by

¹⁴ Barry Trachtenberg, Victor Silverman, Atalia Omer, Raz Segal, Rebecca T Alpert and Judith Butler, *Harvard appears to think all Jews support Israel. That is discriminatory*, The Guardian, June 12, 2025. <https://www.theguardian.com/commentisfree/2025/jun/12/harvard-jews-srael-discriminatory>

¹⁵ Foundation for Middle East Peace, "Tracking Lawfare: FMEP's research and documentation on the campaign to exploit U.S. laws and courts to quash American activism for Palestinian rights." <https://lawfare.fmep.org/>

Columbia,' including that 'Columbia did not adopt the IHRA definition.' Dkt. 117 at 16–19; see Dkt. 86 at 24 (arguing that 'Columbia did not follow all the [Agency] Defendants' demands' and that any changes came from within). **But Columbia has adopted the IHRA definition, and even if it hadn't, plaintiffs have still plausibly pleaded coercion for the reasons discussed above...** plaintiffs have plausibly alleged that the Agency defendants have threatened coercive action against one party (Columbia) to squelch the protected speech of a third party (plaintiffs)... plaintiffs have plausibly alleged that the Agency defendants are improperly motivated by a desire to suppress plaintiffs' political speech...the Agency defendants argue that '[a]ntisemitic harassment is not shielded by the First Amendment.' Dkt. 86 at 26. They are correct that '[t]rue threats of [antisemitic] violence are outside the bounds of First Amendment protection.' *Counterman v. Colorado*, 600 U.S. 66, 69 (2023). But plaintiffs allege that their contemplated speech doesn't involve harassment, threats, or violence, but rather 'protected . . . speech regarding Palestinian human rights that the [Agency defendants] disfavor.' SAC ¶ 176. **For example, the double standards that plaintiffs allegedly apply to Israel—i.e., critiques they level at the Israeli government but not any other governments—aren't inherently antisemitic threats. SAC ¶ 179.** In any event, even if the government can enforce the law and police the use of public funds, they may not do so 'in order to punish or suppress [plaintiffs'] protected expression.'”

- [American Association of University Professors v. Rubio, 1:25-cv-10685 \(D.Mass\) – 25-1658 \(1st Cir.\)](#) (January 2026) finding that the Trump administration's justification of the deportation of college students under [two executive orders that rely on the IHRA Definition](#)¹⁶ is viewpoint discrimination in violation of the First Amendment and violates the Administrative Procedure Act:

“Secretaries Noem and Rubio have intentionally and in concert implemented Executive Orders in 14161 and 14188 a viewpoint-discriminatory way to chill protected speech” that “violated the First Amendment.” AAUP, 802 F. Supp. 3d at 175. Further, “the Public Officials’ threats to continue detaining, deporting, and revoking visas based on political speech serves as circumstantial evidence that such enforcement exists, is viewpoint discriminatory, and has objectively chilled the Plaintiffs’ speech. [...] The Court therefore declares, for the reasons set forth in its findings, that that the “enforcement policy” and its implementation: (1) violates the First Amendment right of freedom of speech set out in the Constitution of the United States, and (2) the Administrative Procedure Act.”

¹⁶ President Trump signed Executive Order 14188, [Additional Measures to Combat Anti-Semitism](#), reaffirming Trump’s 2019 Executive Order 13899 which relies on the IHRA definition for Title VI enforcement. See Southern Poverty Law Center’s *Trump’s Executive Order on Antisemitism – Explained at* <https://www.splcenter.org/resources/guides/trump-executive-action-antisemitism-faq/>

- [Sussman v. Massachusetts Institute of Technology – 1:25-cv-11826 \(D.Mass\)](#) (January 2026) where the plaintiff explicitly based their case on the IHRA definition

*“The First Circuit has rejected the contention that plaintiffs' more general allegations about alleged discrimination on the MIT campus suffice to establish severe and pervasive racial harassment within the scope of Title VI. See Stand With Us Ctr. for Legal Just. v. Massachusetts Inst. of Tech., 158 F.4th 1, 11 (1st Cir. 2025). (The Amended Complaint admittedly does include additional incidents post-dating the events described in the Stand With Us Complaint. But **the court sees no basis on which to distinguish the First Circuit's conclusion that anti-Israeli sentiment is not, without more, antisemitic messaging.**)”*

- [Segev v. President and Fellows of Harvard College – 1:25-cv-12020 \(D-Mass\)](#) (December 2025) where the plaintiff explicitly based their case on the IHRA definition

*“...nothing in the Amended Complaint plausibly supports the notion that his assailants' conduct was motivated by race-based antisemitism. At best, Segev notes that he was overtly wearing a blue bracelet symbolizing his support for Israel. But it is not clear that protestors understood the import of his bracelet or that, if they did, they were acting based on antisemitism rather than disagreement with the underlying political message. Stand With US Ctr. for Legal Just. v. Massachusetts Inst. of Tech. , 158 F.4th 1, 18 (1st Cir. 2025). **Segev cannot transform his assailants' anti-Israel sentiment into antisemitism based on their use of certain rhetoric -- for example, chants of 'from the river to the sea.'** Am. Compl. 149. The relevant question is whether the protestors chanting these slogans viewed them as antisemitic. See Stand With US , 158 F.4th at 19. Nothing in the Amended Complaint plausibly permits the inference that they did.”*

- [Stand with Us Center for Legal Justice v. Massachusetts Institute of Technology – 1:24-cv-10577 \(D.Mass\)](#)

*"Plaintiffs are entitled to their own interpretive lens equating anti-Zionism (as they define it) and antisemitism. But it is another matter altogether to insist that others must be bound by plaintiffs' view. Plaintiffs' equation finds no consensus support in dictionary definitions. Nor does a review of the academic literature point to any consensus that criticism of Zionism is antisemitic. And we do not find it dispositive that the United States Department of State has defined antisemitism as "[d]enying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavor."...**This absence of consensus reflects***

ongoing debate as to the relationship between anti-Zionism and antisemitism -- debate that our constitutional scheme resolves through discourse, not judicial fiat.”

- [American Association of University Professors v. Rubio – 1:25-cv-10685](#) (September 2025)

*“It was never the Secretaries [of State and Department of Homeland Securities’] immediate intention to deport all pro-Palestinian non-citizens ... The intent of the Secretaries was more invidious -- to target a few for speaking out and then use the full rigor of the Immigration and Nationality Act (in ways it had never been used before) to have them publicly deported **with the goal of tamping down pro-Palestinian student protests and terrorizing similarly situated non-citizen (and other) pro-Palestinians into silence** because their views were unwelcome.”*

Footnote: *“This gambit has been accompanied by **the Trump administration's full-throated assault on the First Amendment across the board under the cover of an unconstitutionally broad definition of Anti-Semitism.** As it should, this Court confines itself to the facts proven herein and makes no further comment.”*

- [The Louis D. Brandeis Center, Inc. v. Regents of the University of California – 3:23-cv-06133](#) (March 2025)

*"the FAC repeatedly alleges that 'Zionism is a central tenet of the Jewish faith.' FAC ¶¶ 8, 15, 127-28, 170-72. This raises concerns about whether Brandeis intends to call upon the Court to determine the articles of faith of Judaism. If so, **a serious constitutional problem would arise. The Establishment Clause properly forbids the federal courts from saying what the tenets of a religion are...**This proscription is particularly forceful when, as here, there is genuine disagreement on the matter. See FAC ¶¶ 14, 118-19. Because the FAC as a whole plausibly alleges that Jewish students and professors were disparately treated because they are Jewish, the Court need not get into the issue now. The 'Establishment Clause will be no worse for not having been so tested.' *Satanic Temple, Inc. v. City of Boston*, 111 F.4th 156, 185 (1st Cir. 2024) (Barron, J., concurring). It may be that the Court may properly determine whether Zionism is a sincerely held religious belief for some individuals, as circumstances might warrant, but the Court will not determine if it is a central tenet of Judaism."*

- [Ally Landau, HJSB, HJSC and Jews at Haverford v. The Corporation of Haverford College -- Case 2:24-cv-02044](#) (January 2025)

"...Plaintiffs also dedicate a full eight pages of their Complaint to their effort to link Judaism to Zionism, while simultaneously insisting that they are not asking the Court to resolve any religious issues. Id. ¶¶ 56-103. **Plaintiffs' equivocation is disingenuous, but likely strategic, seeking to blur the line between Zionism as a political philosophy and Zionism as a component of Jewish identity, and in the process implicitly sweep any and all criticism of Israel into the basket of antisemitism.** As a threshold matter, as I have done previously, I reject Plaintiffs' embedded proposition that any anti-Israel speech is intrinsically antisemitic, because reasonable people acting in good faith can challenge decisions of the Israeli government without harboring antisemitic views..."

- [Concerned Jewish Parents and Teachers of Los Angeles, et al. v. Liberated Ethnic Studies Model Curriculum Consortium –CV 22-3243](#) (November 2024)

"The essence of plaintiffs' alleged injuries appears to be that they are aware of the challenged curriculum, disagree with it, and fear it will be adopted or used in LAUSD classrooms. (See Dkt. 119, SAC at ¶¶ 26-30). But it is far from clear that learning about Israel and Palestine or encountering teaching materials with which one disagrees constitutes an injury. See *Caldwell v. Caldwell*, 545 F.3d 1126, 1133 (9th Cir. 2008) (holding that a parent's 'offense' to online instructional material was an 'abstract objection' insufficient to support standing). As the Supreme Court has noted, 'the psychological consequence presumably produced by observation of conduct with which one disagrees . . . is not an injury sufficient to confer standing under Art. III, even though the disagreement is phrased in constitutional terms.' *Valley Forge Christian Coll. v. Americans United for Separation of Church & State, Inc.*, 454 U.S. 464, 485-86, 102 S.Ct. 752, 765 (1982). Neither the parent-plaintiffs nor the teacher-plaintiffs have identified 'any personal injury suffered by them as a consequence of the alleged constitutional error[.]' See *Valley Forge*, 454 U.S. at 485, 102 S.Ct. at 765 (emphasis omitted); (see, generally, Dkt. 119, SAC at ¶¶ 64-221). Plaintiffs may not 'sue merely because their legal objection is accompanied by a strong moral, ideological, or policy objection to a [purported] government action.' 12 *Hippocratic Medicine*, 602 U.S. at 381, 144 S.Ct. at 1556. In other words, the individual plaintiffs' potential exposure to ideas with which they disagree is insufficient to support standing."

- [Students for Justice in Palestine, at the University of Houston, et al., Plaintiffs, v. Greg Abbott, in his official capacity only as the Governor of the State of Texas, et al., Defendants. -- 1:24-cv-00523](#) (October 2024)

"...as a threshold issue, the Court finds **the incorporation of this specific definition of antisemitism is viewpoint discrimination.** In general,

including the word “antisemitism” in speech policies, perhaps in the context of protecting students from discrimination and harassment, is not inherently a First Amendment violation. The Defendants wish to view the speech policies in this vacuum, claiming the revised policies do not in fact prohibit any specific expression. (Dkt. 31, at 35-36). But here, the speech policies do not leave “antisemitism” open to constitutional definitions and interpretations, because GA-44 mandated a specific definition. (Dkt. 21-1). That definition, by incorporation of the IHRA’s examples, labels “calling the State of Israel a racist endeavor” and “drawing comparisons of contemporary Israeli policy to that of the Nazis” as antisemitic. And students can be punished for antisemitic speech under the revised speech policies. Supra, n.2-5. Plaintiffs follow this thread, reasonably understand that their intended speech is now punishable under the revised policies, and hesitate to engage in such expression. (Dkt. 21, at 5). Because of this, Court finds the revised policies are intertwined with GA-44 and the IHRA examples, which identify content-specific expression—like that the State of Israel is a racist endeavor or drawing comparisons between Israel and Nazis. Through the connection to these examples, the policies make that speech punishable, thereby chilling it.”

*"In conclusion, the Court finds that Plaintiffs are likely to succeed on their claim, even under Tinker, that the GA-44-compliant university policies **impose impermissible viewpoint discrimination that chills speech in violation of the First Amendment**"*