

Lori Lowenthal Marcus\* (PA 53388)  
Jerome Marcus\* (PA 50708)  
Rachel Ghatan (CA 204355)  
THE DEBORAH PROJECT  
P.O.B. 212  
Merion Station, PA 19066  
Telephone: (610) 880-0100  
lorilowenthalmarcus@deborahproject.org  
jmarcus@deborahproject.org  
rghatan@deborahproject.org

*Attorneys for Plaintiff*  
KAREN FISS

\*Admitted Pro Hac Vice

JAVITCH LAW OFFICE  
Mark L. Javitch (CA 323729)  
3 East 3rd Ave. Ste. 200  
San Mateo, CA 94401  
Telephone: (650) 781-8000  
Facsimile: (650) 648-0705  
mark@javitchlawoffice.com

*local counsel for Plaintiff*

**IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF CALIFORNIA**

KAREN FISS,  
Plaintiff,  
v.  
CALIFORNIA COLLEGE OF THE ARTS,  
Defendant,

Case No.: 4:24-cv-03415-HSG

**FIRST AMENDED COMPLAINT**

PLAINTIFF KAREN FISS, by and through her undersigned counsel, alleges as follows:

1. This is an action brought by Plaintiff Dr. Karen Fiss to remedy the breach of her right to teach within an academic institution that upholds the doctrine of intellectual freedom and to address unlawful employment discrimination based on religion and ethnic origin in violation of Title VII of the Civil Rights Act of 1964.

2. The acts, omissions, policies, and practices at California College of the Arts (“CCA” or “the College”), directed by the College’s leadership, have transformed CCA from an

academic arts institution focused on developing students into “versatile makers with inventive solutions to advance culture and society,” into an ideologically orthodox factory enforcing a single acceptable view—which is anathema to the Plaintiff and a great many other Jews—on issues relating to the Jewish people, the State of Israel, the land of Israel, and the history of the Middle East.

3. Dr. Karen Fiss is a full professor at CCA who has experienced discrimination in the form of disparate treatment and a hostile work environment as a result of these policies and practices, infringing upon her rights under Title VI, Title VII, under California law and as well as under her contractual agreement with CCA.

4. The deliberate transformation of the CCA campus into a political battleground underscores a concerning trend where the Middle East conflict is a constant presence in the academic life of every member of the CCA community, whether faculty, student or administration. From the moment one steps onto campus, the relentless energy focused on this issue is palpable. However, what is particularly troubling is the one-sidedness of the rhetoric, whereby the Jewish State is consistently vilified and delegitimized. Members of the College community are effectively forced into a position where they must either align with the prevailing narrative or risk ostracism.

5. CCA’s enforcement of the view that the Jewish State is genocidal and illegitimate, devoid of its inherent right to self-defense or existence, is a calculated assault on intellectual diversity and academic freedom. The steps and mechanisms described in this Complaint are intended to, and do in fact, stifle dissenting voices and undermine the very foundation of scholarly inquiry and discourse.

6. Because Dr. Fiss's beliefs do not align with the creed mandated and enforced by the College, she has suffered repeated and severe adverse treatment by CCA, which has dramatically impeded her ability to function as a scholar.

7. As part of its policy of enforcing ideological conformity about Israel, CCA has threatened Dr. Fiss with dismissal for two reasons: (1) her refusal to comply with student demands to contact her congressional representatives to pressure Israel—a sovereign nation—to cease its military response to an ongoing threat; and (2) for respectfully challenging this monopolization of discourse and reaffirming the principles of open dialogue and open debate within CCA.

8. These threats were conveyed by CCA through its internal disciplinary procedures, which it has used to suppress any expression—including Dr. Fiss's expression—supportive of Israel's right to exist as a Jewish State.

9. Jewish students have been harassed by faculty and fellow students in the classroom for not supporting this dominant ideology. They have been pressured to join pro-Palestinian and pro-Hamas walk-outs during class hours. Their Jewish identity and divergent political opinions have been silenced in classroom discussions through intimidation by professors and students alike, as well as by the infliction of other forms of harassment, and they have experienced isolation and ostracism from peers in campus life.

10. Students are made fully aware of the antisemitic political views held by their professors and some administrators in class, and through the public protests and social media posts by CCA professors on their CCA social media accounts.

11. Moreover, faculty members, including Dr. Fiss, who challenge this sanctioned narrative are subjected to ongoing threats of disciplinary action, up to and including dismissal.

This hostile environment extends beyond the classroom, where Jewish students and faculty members face harassment, coercion, and isolation for their identity and political beliefs.

12. CCA's reluctance to address this mendacity among its faculty and students further exacerbates the situation. Instead of nurturing open dialogue and diverse perspectives, the institution perpetuates a culture of fear and intolerance.

13. Multiple Jewish students have confidentially approached Dr. Fiss as well as another Jewish colleague about their experiences of antisemitic discrimination at CCA. These students are too intimidated to come forward on their own. With the promise of remaining anonymous, two Masters of Fine Arts students who had confided in Professor Fiss agreed to speak confidentially with the Vice President of Diversity, Equity, Inclusion and Belonging Tricia Brand about their antisemitic experiences at the College. As a result, CCA is aware of the experiences of these students. But despite this notice, the College has taken absolutely no action to abate any of the problems these students called to CCA's attention.

14. Several non-Jewish students with whom Dr. Fiss has friendly relations confided to her that although they are Muslim by birth and come from Muslim countries, they were called Islamophobic by CCA students for being critical of the October 7 Hamas attacks on Israel. These students, like Dr. Fiss, have learned not to publicly express their own views about the Middle East when on the CCA campus.

15. One Jewish student attempted to obtain support from the administration after a professor began using the classroom to advocate for antisemitic ideology rather than teach the course topic. Her concerns were not addressed, the professor not disciplined, and the student dropped the class and replaced it with an "independent study," a response which meant that student was deprived of learning the course material and turned out to learn on her own, which is

not what CCA promises its students. That Jewish student was told to talk to the chair of her program. But because the chair was himself constantly posting anti-Zionist messages on his personal Instagram account, the student did not feel comfortable or believe that it would be productive—indeed, it was likely to lead to still further harassment—in any way to approach this professor about her concerns.

16. This student is trapped in an untenable situation, subjected to a constant stream of biased and one-sided rhetoric against the State of Israel and Jews within the classroom. Because of her belief in the fundamental right of Israel to exist as a Jewish State, she finds herself muzzled and marginalized, forced to endure a hostile environment rather than risk reprisal for speaking out. But that student has been silenced, having to choose to remain in a hostile environment rather than complain and then again be deprived of course material which she came to CCA to obtain and for which she paid.

17. This student's experience at CCA serves as a glaring illustration of the pervasive hostility towards Israel's identity as a Jewish State and any expression of Jewish support for it. This hostility is not only condoned but actively enforced through CCA's disciplinary policies, which effectively suppress any dissenting voices on Middle East-related issues. Students and the administration exploit these policies to ensure ideological conformity, leaving no room for divergent perspectives within the CCA community. Consequently, Jewish students and faculty who uphold a commitment to Judaism and/or Zionism are consistently marginalized and subjected to hostility on the basis of their ancestry, ethnicity and religion, and all of the conduct at issue in this case constitutes discrimination against the Plaintiff because of her ancestry, ethnicity and religion.

18. Such systemic discrimination not only undermines academic freedom but also contradicts the principles of intellectual diversity that should be fundamental to any educational institution. This student's experience is just one manifestation of the omnipresent hostility to Israel's existence as a Jewish State, and to any Jewish commitment to Israel, which is a constant presence at CCA, maintained with the full knowledge and intent of CCA's administration. That hostility is mandated by CCA's disciplinary policy, as that policy is actually applied to any effort to exercise academic freedom by speaking freely and by seeking to provide explanation about the Middle East from a position contrary to CCA's enforced ideology. That disciplinary policy, in turn, can be and is invoked by students, and adjudicated by CCA administration, as an ideological enforcement tool to ensure that no-one—student or faculty—is permitted to publicly manifest opinions at odds with the CCA orthodoxy. The result is an environment relentlessly hostile to those Jewish students and faculty who share a commitment to Israel and Zionism.

19. Dr. Fiss's commitment to Israel is, for her and the vast majority of Jews, an essential component of her religious commitment as well as of her ethnic identity and national ancestry. The Jewish people have, for thousands of years, been committed to the land of Israel. That commitment is manifest in the Jewish canon—the Torah, Prophets and Writings (which form what are referred to in the West as the Old Testament), the Talmud, Jewish law and Jewish liturgy—as well as in a plethora of Jewish customs, Jewish foods, the Jewish calendar and the Hebrew language.

20. As a result, the United States Department of Education, Office of Civil Rights, has recognized that discrimination against Zionism and Zionists is a form of antisemitism, because it constitutes discrimination against Jews on the basis of their ethnic identity, national origin and national ancestry.

21. The United States Department of Education, Office of Civil Rights, has issued at least two determinations that discrimination against individuals on the basis of their commitment to Zionism constitutes discrimination on the basis of shared ancestry, and is therefore a violation of Title VI.

22. Thus, a letter ruling from the U.S. Department of Education, Office For Civil Rights, issued April 3,2023, to the University of Vermont and State Agricultural College, determined that anti-Zionist conduct constitutes a violation of the rights of Jewish students under Title VI because it constitutes discrimination on the basis of shared ancestry and, therefore, national origin discrimination. A true and correct copy of the letter ruling is attached hereto as Exhibit A.

23. That letter identified as “antisemitic” a series of tweets by a University of Vermont faculty member. None of the tweets contained the word “Jew” or Jewish.” Instead, their antisemitic content consisted of repeated denunciations of Zionism and Zionists, such as “its [sic] good and funny” “for me, a TA, to not give Zionists credit for participation;” “why do so many Zionists work for the writing center[?];” “I get the indelible [sic] surge [sic] to cyber bully” when receiving “posts from UVM Zionist Instagram accounts;” and “serotonin rush of bullying Zionists on the public domain.”

24. Similarly, on December 13, 2022, the U.S. Department of Education, Office for Civil Rights issued a Notice advising that impermissible discrimination against Jews “on the basis of national origin (shared ancestry)” would be proven by facts demonstrating that “University-recognized student organizations passed a bylaw against inviting speakers who support ‘Zionism, the state of Israel, and the occupation of Palestine.’” See Exhibit B.

### **JURISDICTION AND VENUE**

24. This Court has subject matter jurisdiction over this controversy under 28 U.S.C. §1331 as this Complaint states claims arising under federal law, and pursuant to 28 U.S.C. §1367 as this Complaint states ancillary claims arising under state law.

25. Venue lies in this district pursuant to 28 U.S.C. §1391, as the Defendant resides in this district and a substantial part of the events or omissions giving rise to the claim occurred in this district.

### **DIVISIONAL ASSIGNMENT**

26. Pursuant to Civil L.R. 3-2(c) and 3-5(b), this action should be assigned under Civil L.R. 3-2(c) and (d) to the San Francisco or Oakland division because it arose in San Francisco County, CA.

### **PARTIES**

26. The Plaintiff in this case, Dr. Karen Fiss, is a full professor, tenured faculty member in History of Art and Visual Culture at CCA. In 1995, Fiss received her PhD with Distinction from Yale University in History of Art.

27. Dr. Fiss's research examines the visual production of national identity from the 1930s under fascism to the current practice of "nation branding." Fiss examines how such soft power practices shape social, artistic and built environments, with a particular focus on how citizenship and historical memory are commodified and visually produced. Her expertise, her scholarship and her teaching are focused on the political content of art, and the use (and abuse) of art as a tool to advance political agendas.

28. Dr. Fiss is an internationally recognized scholar in her field. Over her nearly forty-year career, she has published three books, over twenty articles, and has been awarded

prestigious grants and fellowships, including from the NEH, the Getty Foundation, the Graham Foundation, The Center for the Advanced Study in the Visual Arts, National Gallery, and the Deutscher Akademischer Austauschdienst. Dr. Fiss has also served in a number of prestigious professional roles: as chair of the USA Artists Selection Panel; grant reviewer for the NEH, Getty Grant programs and SSHRC Canada grant cycle; Program Reviewer for UC Berkeley Advisory Board for New Directions in Contemporary Art Series for Lund Humphries Publishing, London; manuscript reviewer for Yale University Press, University of Chicago Press, University of California Press, as well as scholarly journals, among other professional roles and honors. She has also served as a mentor to junior colleagues, and as an “Immigrant Artist Mentor” for a New York Foundation for the Arts program.

29. Dr. Fiss has presented invited lectures and keynote addresses internationally including at Columbia University, USC, Museum of Contemporary Art, Los Angeles, nGbK Berlin, and the Museo Reina Sofia, Madrid. She has curated exhibitions in the United States and abroad. Among her projects, Dr. Fiss served as the film curator for the Museo Reina Sofia, Madrid, for the exhibition and film program commemorating the 75<sup>th</sup> Anniversary of the Spanish Civil War and Picasso’s Guernica; and was co-curator with Kymberly Pinder (Dean Yale School of Art) of the exhibition *Necessary Force: Art in a Police State* (Art Museum of the University of New Mexico, Albuquerque, September 11 – December 12, 2015), which interrogated law enforcement’s longstanding history of violence, and the systemic forces that continue to sanction and promote the violation of civil rights of people of color. The curriculum vitae of Dr. Karen Fiss is attached hereto as Exhibit C.

30. Dr. Fiss is committed to the existence of the State of Israel as a Jewish state, and to the concept of Zionism as the national liberation movement of the Jewish people. These

commitments are rooted in, and are indeed elements of, Dr. Fiss's religious belief as well as her ancestry and her ethnic identity.

31. The commitment of the Jewish people – as a people and not merely as a religion – to the land of Israel is a commitment manifest in Jewish religious belief, in the shared ancestry of Jewish people, and in Jewish ethnic identity. It is rooted in Jewish canonical texts, in Jewish belief, in Jewish customs, and the Jewish calendar.

32. Defendant California College of the Arts, founded in 1907, holds itself out to be a college focused on the training of artists and art scholars. It maintains its principal place of business at 1111 8<sup>th</sup> Street, San Francisco, CA. 94107.

### **FACTUAL ALLEGATIONS**

31. CCA has historically extended its curriculum to both scholars of art and practitioners of art and craft. However, the institution has now overwhelmingly embraced a politically charged agenda, sacrificing academic diversity and artistic freedom. The curriculum is saturated with ideological content, with 30 Critical Ethnic Studies faculty and numerous Humanities & Science faculty in Critical Studies, Writing, and History of Art and Visual Culture pushing a singular political viewpoint and that viewpoint includes a virulent hostility to Israel, the homeland of the Jewish people which is a central thread of Judaism and to the concept of Zionism as the national liberation movement of the Jewish people.

32. Many studio art faculty, traditionally champions of diverse techniques and visions, also conform to this rigid political orthodoxy and bring it into their classrooms. This shift stifles creative expression and undermines the comprehensive art education that CCA once offered, reducing the institution to an echo chamber of uniform thought.

33. The official position taken by CCA, deeming the centrality of Israel as the homeland of the Jewish people and support for Israel's existence as a Jewish State as illegitimate, constitutes a glaring manifestation of institutionalized antisemitism. This stance has fostered a toxic and discriminatory environment, systematically targeting Jewish individuals based on their political and ethnic identity. Jewish students and faculty are subjected to pervasive marginalization and ostracization solely for their beliefs and heritage. Voices advocating for Israel, including Plaintiff's, are aggressively silenced, and expressions of Jewish identity are met with overt hostility and intolerance. The instances of discrimination against Plaintiff at issue in this case are examples of, and manifestations of, these CCA policies.

34. This entrenched bias not only violates fundamental principles of equality and academic freedom but also perpetuates a climate of fear and exclusion for Jewish members of the community. It undermines meaningful discourse and critical inquiry, essential elements of any academic institution, while callously disregarding the rights and dignity of individuals based on their cultural and political affiliations. By promoting a singular political narrative and vehemently delegitimizing all pro-Israel perspectives, CCA actively contributes to the propagation of antisemitic attitudes and stereotypes.

35. The institutionalized and enforced hostility to Plaintiff's religious beliefs and her ethnic and ancestral identity thus caused the multiple acts of discrimination described in this Amended Complaint and severe and pervasive discrimination against Plaintiff on the basis of her religion, ethnicity and ancestry.

36. The repercussions of this discriminatory behavior are profound and far-reaching, directly undermining the academic freedom, personal security, and ethnic identity of Jewish individuals, including Dr. Fiss. CCA's complicity in fostering an antisemitic environment not

only stains its reputation but also exposes it to legal liability for flagrant violations of laws protecting individuals from discrimination based on political beliefs and ethnic identity.

37. CCA has engaged in discriminatory practices in violation of applicable laws and regulations protecting individuals from discrimination based on political beliefs and ethnic identity. CCA's discriminatory practices flagrantly violate laws safeguarding individuals from discrimination based on political beliefs and ethnic identity. The institution's overt bias against Jewish students and faculty is evident through its actions and inactions, which have created an environment rife with prejudice and hostility.

38. Specifically, CCA has issued statements condemning violence against numerous different minority groups. Never, however, has CCA leadership addressed violence against Jews. CCA issued:

- a. at least three statements condemning the murder of George Floyd;
- b. another supporting the conviction of police officer Derek Chauvin;
- c. statements condemning targeted attacks on mosques in New Zealand;
- d. statements condemning anti-Asian hate and attacks in the wake of COVID;
- e. a statement supporting the “Women, Life, Freedom” movement in Iran;
- f. a statement in support of Ukraine following the incursion into it by Russia;
- g. a statement on the shooting at a Buffalo, New York grocery store and a church in Orange county;
- h. a statement against shootings in Atlanta which involved six Asian women;
- i. a statement on Roe v. Wade and the Supreme Court;

- j. a statement on the Supreme Court and Affirmative Action;
- k. a statement on ICE Immigration policies;
- l. a statement on Democratic wins in US presidential and senate elections.

39. More than a dozen official statements were issued by CCA on topics about which the College sought to express either solidarity with individuals who had suffered violence or against major political or landmark legal decisions about which it sought to publicly express moral repugnance. Some of these statements addressed domestic issues, others were pronouncements about events that happened across the globe.

40. When it came to violence committed against Jews, however, CCA had nothing to say. Even when attacks on Jews took place geographically near to CCA, no statement was issued. Jewish harm was of no importance and not even worthy of lip service to CCA. Harm against any other minority, whether Black or Asian or undocumented immigrants or church goers or mosque attendees, commanded the attention of, and the issuance of public statements by, CAA. But CCA completely ignored violence done to Jews:

- a. CCA did not issue a statement when a Jewish man was killed while participating in a pro-Israel rally in nearby Thousand Oaks, California, on November 5, 2023;
- b. CCA did not issue a statement when two Jews were shot leaving their houses of prayer in Los Angeles, one on February 15 and the next on February 16, 2023;
- c. CCA did not issue a statement when a congregation full of Jews were held hostage in Colleyville, Texas on January 16, 2021;

d. CCA did not issue a statement when, on April 27, 2019, a shooter entered a synagogue on Shabbat which was also the last day of the Jewish holiday of Passover, shooting several congregants and the rabbi, and killing one of the congregants in Poway, California;

e. CCA did not issue a statement when a gunman entered the Tree of Life Synagogue in Pittsburgh, Pennsylvania on October 27, 2018, and murdered 11 people and wounded six, including several Holocaust survivors. This incident was the single worst attack on Jews in America.

39. On October 9, 2023, Dr. Fiss wrote to Tricia Brand on behalf of Jewish CCA faculty and students who, Dr. Fiss explained, “are wondering when the CCA leadership will issue and distribute a statement to the CCA community expressing solidarity with Jewish students and those with ties to Israel and condemning the murderous attacks by Hamas on innocent Israeli victims—many children and youth among them.

40. In this communication, Dr. Fiss put CCA’s leadership on notice—again—about its failure to properly address the concerns and fears of the college’s Jews:

As we have discussed, CCA leadership failed to issue a statement of solidarity with Jewish students when the Pittsburgh Tree of Life murders took place, as well as multiple shooting attacks closer to home in California (Poway, Los Angeles, San Francisco). In contrast, it has issued statements of solidarity and support for tragic ethnic, religious and gender violence in Iran, New Zealand and elsewhere. As we previously discussed, I support those previous statements and also did my best as a faculty member to support those students suffering as a result of news of the violence in these countries.

This email is attached hereto as Exhibit D.

41. Instead of issuing a statement in support of the Jewish community expressing the same kind of support and concern as that expressed on behalf of the many groups supported in the statements referenced above in ¶36, following the deadliest attack on Jews since the

Holocaust, when more than 1200 people were murdered in southern Israel in less than two days beginning on October 7, 2023, many of whom were incinerated alive, shot repeatedly in their faces and genitals, raped to death, and more than 200 taken hostage into Gaza, CCA had this to say:

Dear CCA Community,

We all feel a lot of heaviness and grief about the horrific and devastating events that unfolded over the weekend in Israel and Gaza. We are especially concerned for those who fear for the welfare and safety of loved ones, those who've already lost loved ones to terror, and everyone whose safety is under threat because of their culture, their faith, and their hope for peace.

CCA is a diverse and increasingly interconnected learning community. Faculty may be struggling with how to address this moment in their classrooms and studios. Students may be experiencing anxiety in a violent and uncertain world. In times of political crisis and war, we may be seeking spaces to grieve, to understand, and to find comfort in community. We recognize that although our college is small, those who are affected may not always be visible. However, we share in the collective pain of this moment and want to ensure that the community is aware of resources that are always available to you, should you choose to reach out.

See Exhibit E.

42. The overwhelming majority of CCA students and faculty vociferously express similar views on a variety of political topics, including the belief in the illegitimacy of the State of Israel as a Jewish State.

43. Articulation of opinions inconsistent with this consensus by any member of the College Community is met at CCA by ostracism and by threats that the articulation of views in support of Israel will disqualify students from support by faculty; will disqualify or effectively prevent faculty from functioning as professional members of the CCA community; and may result in a faculty member's dismissal—even the dismissal of a faculty member, such as Dr. Fiss, with full tenure.

44. CCA's repeated discrimination against individuals expressing support for Israel or identifying with Jewish identity constitutes a disturbing pattern of antisemitic behavior and a clear violation of Title VI and Title VII protections. Despite the prevailing narrative within the institution regarding the illegitimacy of Israel as a Jewish State, dissenting voices from Jewish individuals face disproportionate consequences. Students report social isolation, and even tenured faculty members like Dr. Fiss have faced threats of dismissal for expressing or acting on their beliefs.

45. This pattern of discrimination has been documented through numerous accounts and incidents. Individuals expressing support for Israel have reported ostracism and hostility from their peers, and dissenting opinions have been met with censorship and professional repercussions. Such behavior undermines the principles of academic freedom and equality that Title VI and Title VII aim to protect.

46. This institutionalized double standard not only violates federal and state law but is not only intellectually dishonest but also morally reprehensible. While viewpoints aligned with the CCA-approved antisemitic orthodoxy—even full-throated glorification of the horrific murders of Jews—are shielded under the pretext of academic freedom, dissenting perspectives are met with censorship and punishment. Such behavior not only stifles genuine intellectual discourse but also constitutes a profound betrayal of the principles of fairness and equality enshrined in Titles VI and VII.

47. At the same time, articulation of views consistent with the CCA approved view not only by individual CCA faculty members but by entire CCA departments, acting in their official capacity as units of CCA, are deemed permissible as “academic freedom” even when

such views are hateful and interfere with the ability of others to participate in their academic opportunities at CCA.

48. This official CCA adoption of the political position that any indication of Zionism, and support for Israel's existence are illegitimate, has resulted in an environment that is deeply and thoroughly hostile to any person, including Dr. Fiss, who holds a view inconsistent with the official CCA view.

49. This hostile environment makes it impossible for Jewish members of the CCA community to reveal even their religious identity, much less a political commitment in support of the Jewish State to their fellow students or teachers. Revelation of such an identity will result in such a student being tainted as a Zionist and, as an ineluctable result of such public identification, publicly denounced and shunned by students and abandoned by the faculty.

50. A CCA faculty member has called out "F\*ck the Zionists" in a faculty meeting, without encountering any criticism or a request to avoid such behavior. At another faculty meeting on December 10, 2021 (over Zoom), the Chair of Critical Ethnic Studies and another faculty member (Maxwell Leung) expressed their displeasure that in some of their course evaluations, some students were reporting that these professors' courses had antisemitic content. Rather than this issue be a cause for concern for the well-being of students, these professors were angry that the Jewish students were attempting to limit the faculty's "free speech," i.e. their "right to express antisemitism in the classroom."

51. Students in Dr. Fiss's class have falsely informed her that "the Israeli Kibbutz movement wasn't real, it was just Israeli propaganda to seduce the Left," and have turned a class presentation on art into a call for the Boycott, Disinvestment and Sanctions movement against

Israel. Other papers submitted to Jewish faculty have included arguments that “Jews control the media” and that Jerusalem “belongs” only to Islam and the Palestinians.

52. The relentless hostility at CCA has created an untenable situation for Jewish scholars like Dr. Fiss, who find themselves marginalized and ostracized within the academic community. The pervasive atmosphere of fear and intolerance has effectively silenced dissenting voices, particularly those identified as Zionists. Even faculty sympathetic to Israel dare not publicly associate with anyone labeled as a Zionist, fearing retribution.

53. The same hostile environment makes it impossible even for a fully tenured professor such as Dr. Fiss to be able to function as a scholar within CCA as a community of scholars. The overwhelming majority of CCA faculty will refuse to engage with anyone labeled a Zionist, and the few who would be open to doing so, or who even share a commitment to Israel, are far too fearful to be willing to publicly engage with any person identified as a Zionist, such as Dr. Fiss.

54. The toxic antisemitic and anti-Israel atmosphere at CCA is the deliberate creation of CCA leadership, who vociferously and unequivocally embrace “critical ethnic studies” which, at its foundation, is opposed to the state of Israel as a Jewish State. Indeed, although CCA is an arts college, the Critical Ethnic Studies department is now the largest humanities department in the school, with an outsized influence on CCA’s political and ideological environment. There are 29 affiliated faculty members in California College of the Art’s Critical Ethnic Studies department, but only ten in the painting department and eight in furniture. Because “critical ethnic studies” is the life blood of its political and therefore educational policies, no deviation from its political or religious orthodoxies is permitted at CCA.

55. At CCA, the absence of Judaism in its purportedly inclusive “critical ethnic studies” program results in a clear double standard, and clear discrimination. While the institution professes to champion diversity and understanding, its failure to incorporate Jewish perspectives and experiences is evident. Jewish scholars like Dr. Fiss find themselves with their voices completely silenced in academic discourse.

56. In promoting “critical ethnic studies,” ostensibly aimed at challenging power structures and advocating for marginalized communities, CCA leadership has neglected the Jewish community entirely. By excluding Judaism from its guiding principles of equity and inclusion and willfully ignoring the millennia of global persecution and historical trauma which is an ineradicable element of the history of the Jewish people, the College perpetuates a narrative that dismisses Jewish experiences and concerns, effectively erasing their presence from discussions on ethnicity and identity.

**A. CCA’S PRO-HAMAS INSTAGRAM POST**

57. On October 7, 2023, armed members of Hamas, an entity recognized as a terrorist organization by the United States as well as by Argentina, Australia, Canada, Israel, Japan, Paraguay, New Zealand, the United Kingdom, and the European Union, destroyed a fence constituting the border between Israel and Gaza, entered Israel, and attacked numerous Israeli towns. During this attack, 1200 people in southern Israel were murdered, hundreds more were injured, and over 200 were kidnapped and taken hostage into Gaza, because Hamas believed those people were Jewish. All of these actions were in clear violation of international law, which, in Geneva Convention Common Article 3, bars every act Hamas engaged in on that day, including violence to the life and person of anyone not engaged in combat, murder of all kinds, mutilation, cruel treatment and torture; the taking of hostages; and outrages upon personal

dignity, in particular the humiliating and degrading treatment of persons both living and dead, as these outrages continued even after many of those murdered were already lifeless.

58. On October 7, hundreds of Israeli women were raped by Hamas fanatics; some were raped to death. Israelis were incinerated, beheaded, tortured, and otherwise mutilated.

59. Hamas spokesman Gazi Hamad subsequently announced that these actions by Hamas were the implementation of Hamas's political program, and that Hamas would repeat the events of October 7 "again and again" until Israel was destroyed.

<https://www.youtube.com/watch?v=BJNccvNJtGk>

60. On October 11, 2023, just days after the horrific Hamas attack on Israel—indeed, before the incinerated Israeli bodies ceased smoldering—Hamas's actions were praised in an Instagram post put up by CCA's Critical Ethnic Studies program on its official CCA account. That post was emblazoned with a photograph of a pro-Palestinian march with Palestinian flags and a sign which read "DECOLONIZATION IS NOT A DINNER PARTY." The post's narrative noted that the Critical Ethnic Studies Program "has a stellar record of teaching the historical and contemporary context of Israel's colonial legacy in Palestine." The message does not mention the brutal attack, rape and murders by Hamas, and instead defines Hamas's atrocities as "collective resistance." Also included on the post was, "You cannot use the term 'decolonize' without recognizing the toxicity and violence of settler colonialism. Decolonization is not a metaphor. Solidarity is not passive." A copy of that Instagram post is attached hereto as Exhibit F.

61. This post was "liked" and therefore its message approved of by CCA's programs and administrators including the Dean of the Humanities and the Sciences, the Dean of Fine

Arts, the Senior Director of Faculty Affairs in the Provost's office, various academic departments at the college, as well many faculty and several chairs, including but not limited to:

- Dave Beeman - Graduate Student Advisor
- CCA Critical Studies
- Wattis Art Institute
- Taraneh Hamami - professor in MFA program and Ethnic Studies
- Nasib Elahi - current MFA student
- Thomas Haakenson - former Associate Provost and Professor in History of Art
- the account of Alison "Sunny" Smith, Dean of Fine Arts, History of Art and Visual Culture Program
- Christof Steger - Chair of Animation
- Erik Scollon - Chair of First Year Program
- Lydia Nakashima - professor in Critical Studies and Critical Ethnic Studies, MFA Writing Program
- Tina Takemoto, Dean of Humanities and Sciences (at the time of the Instagram post, now recently assigned as Interim Director of Faculty Development and DEIB Academic Initiatives)
- Christine Wang, Professor of Painting and MFA
- Justin Hall - Chair of Comics
- Brian Karl: professor Critical Ethnic Studies
- Shy Pacheco Hamilton - personal account of CES chair, Design MBA program
- Em Meine -Senior Director, Faculty Affairs and Records, Academic Affairs Office
- Steve Jones, Professor of Design and Ethnic Studies.

62. Through this Instagram post and its endorsement by CCA leadership, the California College of the Arts effectively took the official position that Hamas's actions were legitimate and that the mutilation, murder, and rape of Israelis on October 7 was the fault of the Israelis who were raped and murdered; and that the act the Jews had committed that rendered them at fault was their decision to live as Jews in the state of Israel.

63. CCA's official position against the existence of the State of Israel as a Jewish State is further codified by the post on the website of CCA's Ethnic Studies Department which adopts verbatim the denunciations of Israel proclaimed by Israel's enemies.

64. On October 10, 2023, Stephen Beal, CCA's president, issued a statement which did not condemn any aspect of Hamas's actions but instead expressed concern about the feelings

of all members of the CCA community who may have been related to any persons killed or injured in Israel or Gaza on October 7. See Exhibit E.

65. On or about October 20, 2023, Dr. Fiss filed a complaint with the College regarding the CCA-CES DECOLONIZATION IS NOT A DINNER PARTY Instagram post and its ratification by many other CCA departments and leadership. In her complaint, Dr. Fiss explained that “The content of the Instagram text appears to be a thinly veiled justification for the rape, torture, beheading and brutal murders of Jews in Israel by Hamas.” Dr. Fiss explained that “The message calls for ‘collective resistance’ without condemning terrorist acts that are clearly in violation of international law.” The Fiss complaint is attached hereto as Exhibit G.

66. Maira Lazdins, CCA’s Vice President of Human Resources, responded in an email dated November 28, 2023, to Dr. Fiss’s complaint about the DECOLONIZATION IS NOT A DINNER PARTY post—over a month after Dr. Fiss filed her complaint. Lazdin informed Plaintiff that “free inquiry and expression are at the heart of every academic community,” and therefore that the expression of support for Hamas’s torture, rape and murder of hundreds of Jews, and the taking of hundreds more as hostages, was an exercise of academic freedom and would not be restrained in any way. Plaintiff was admonished that the post’s call for the murder of Jews had to be tolerated because CCA “continues to [focus] on modeling productive and respectful disagreement within our diverse community.” CCA HR Response, attached hereto as Exhibit H.

67. On December 21, 2023, more than two months after the offending Instagram message was posted, a CCA donor whose family had financially supported CCA for many decades had a post published in the *Times of Israel* media outlet, denouncing the Instagram post by CCA’s Critical Ethnic Studies department which was supported by many other department

heads, members of administration, and faculty members declaring that “DECOLONIZATION IS NOT A DINNER PARTY.” The donor recounted how CCA leadership gave him vague promises to investigate the circumstances but did not follow through. The donor had explained to the CCA President that the Instagram Post constituted vile antisemitism, glorifying the murder of Jews, and therefore also did harm to the institution. The donor also requested that a third party review the Critical Ethnic Studies program’s curriculum, given that all students are required to take two courses in the program to graduate. The donor informed CCA that if it did not “change course,” his family would revoke its bequest. <https://blogs.timesofisrael.com/college-stands-by-anti-semitic-instagram-post/>

68. The same day that the donor’s op-ed appeared in print, CCA took down the post and asserted that it was commencing an investigation into the post. Dr. Fiss was contacted on that same day, December 21, 2022, by Maira Lazdins, CCA’s VP for HR, with an “update” regarding the complaint Dr. Fiss had submitted regarding the DECOLONIZATION IS NOT A DINNER PARTY post. Six days later, and over ten weeks after she had filed her complaint about it, Dr. Fiss was informed that the investigation had been (re)commenced and that “[A]s a temporary, remedial measure” the post would be removed. See Exhibit I. Dr. Fiss was asked to speak with a newly appointed outside investigator about the Instagram post. On January 2, 2024, Dr. Fiss met with that investigator.

69. On February 1, 2024, CCA wrote to Dr. Fiss, informing her that its investigation had concluded and that no CCA policies were violated by the October 11 Instagram post encouraging and applauding the rape, murder and mutilation of Jews in southern Israel. CCA’s investigation “did not find that the CES post violated any CCA policy (including but not limited to [CCA’s Sub-brand Policy](#) and the [policy prohibiting discrimination, unlawful harassment](#)

retaliation), nor did it violate any applicable law, including federal, state and local laws prohibiting harassment and discrimination based on religion or ancestry.” See Feb. 1, 2024 letter from Maira Lazdins to the Plaintiff, attached hereto as Exhibit J. CCA’s previously issued position that CCA’s October DECOLONIZATION IS NOT A DINNER PARTY Instagram Post was an exercise of “productive and respectful disagreement” on the advisability of the torture, mass murder and mass rape of Jews is one CCA continues to embrace.

70. Once again, Dr. Fiss was told that her understanding of the DECOLONIZATION IS NOT A DINNER PARTY social media post and the pain and trauma it has caused her and other Jews is something she would have to bear because those who posted and liked the post were simply engaged in expressing their own protected views and that right outweighed any right to be protected from the harm inflicted by such speech.

71. CCA leadership displayed the same indifference to reports of antisemitism when they were made by an emeritus professor, Barry M. Katz. On January 18, 2024, Katz had filed a complaint about the DECOLONIZATION IS NOT A DINNER PARTY post, explaining that because it “it fails even to acknowledge the events of October 7 it conveys an inescapable message: Jewish lives do not matter. For that reason, I formally charged the Chair of Critical and Ethnic Studies” (who had put up the post) “with racist antisemitism.”

72. In an open letter he issued after his complaint was dismissed, Katz explained further:

I remain convinced that the Chair’s use of the platform of an academic program to promote a private political agenda is inconsistent with CCA’s policies which are designed to protect our community while safeguarding academic freedom and constitutionally protected speech. That a partisan political statement made in the name of an academic program was endorsed by professors, program chairs, deans, and senior administration officials up to and including the Office of Academic Affairs is shocking. It is hard to imagine how a member of CCA’s Jewish community who is submitting coursework for a grade, requesting a letter of

recommendation, or applying for promotion or tenure could expect to be treated with fairness, objectivity, and dignity.

Under these circumstances, I find it impossible to fulfill my academic responsibilities, which include teaching, research, and college service. The message posted on behalf of CES contributes to a hostile and politicized environment in which I must choose whether to censor myself in the classroom and the committee room or risk verbal and even physical abuse; I dare not discuss my collaborations with scholars in other parts of the world; my professional reputation has been damaged by my association with an institution in which such actions appear not merely to be tolerated but widely endorsed.

See Exhibit K.

73. For the crime of expressing his view that it is inappropriate for entire academic departments of his college to approve of the murder of Jews, Katz was made the subject of a complaint “that the Open Letter that you sent has caused [the complainants] to feel unsafe, suffer from emotional distress and question how to complete their job duties in the hostile environment that has been created.”

74. This Complaint was itself another form of harassment, making clear that, in the eyes of the opponents of Jews like Katz, *any* expression of opinion in support of the Jewish community at CCA is intolerable.

75. CCA’s disposition of the complaint against Katz was yet another display of the different rules that apply to Jews, revealing that CCA’s official position is indeed that Jews are not permitted to criticize their attackers. While public advocacy of the rape and murder of Jews is an acceptable exercise of First Amendment rights and academic freedom, while the expression of views like Katz’s was deemed “unprofessional, uncollegial and inappropriate” because he criticized the conduct of the person who had put up the pro-murder post.

76. On November 3, 2023, Dr. Fiss – the only Jewish faculty member willing to speak to CCA leadership on behalf of the Jewish students at CCA—wrote to CCA leadership to advise that yet another student was victimized by the antisemitic environment at the school:

I would like to inform you that another graduate student has approached me about the difficulties he is having in his program and on campus. As a Jew, he says he feels he just has to "keep his mouth shut and stay under the radar." This is too bad, because he is a really bright and talented student.

You did not answer my last inquiry about another graduate student who approached me about a situation in one of our classes, where a female professor and the students in the class tried to coerce her to join the "pro-Palestinian" walk out. When she tried to offer her viewpoint, she said that she was completely "shut down." There was absolutely no room for discussion.

I am not going to encourage either of them to come forward, because I do not believe that there is a safe space, nor is anything really going to be done to better their circumstances.

Nothing has changed in the month since the brutal massacre by Hamas took place.

77. Net result? None of the students' concerns were substantively addressed.

**B. PLAINTIFF EXPRESSED THOUGHTS TO A CCA STUDENT WITH WHICH THE STUDENT DID NOT AGREE AND CONVEYED INFORMATION THAT THE STUDENT DID NOT WANT TO HEAR**

78. Upon information and belief, during the fall semester of 2023, CCA conferred upon an entity called Students for Justice in Palestine ("SJP") recognition as a student group entitled to privileges equivalent to every other recognized student group.

79. On October 26, 2023, three members of the newly recognized student organization SJP staffed a table in the nave, in the "Nave" or main common atrium/hallway of the campus, although there were few people walking through the building at the time. None of the students recognized Dr. Fiss or even knew she was a member of the CCA faculty, nor did Dr. Fiss know the identities of the people at the table.

80. As Dr. Fiss traversed the CCA nave towards her office, one of these students called over Dr. Fiss to their table. Behind the table were pro-Palestine artwork and some QR codes. The student who called her over requested that Dr. Fiss contact her government representatives to demand a ceasefire in Gaza—i.e., to demand that Israel cease its effort to

eradicate the terrorist organization, Hamas. There was nothing in the public display that identified the students at the table as either CCA students or as CCA students who were members or supporters of SJP. Indeed, Plaintiff was unaware that SJP had recently been officially recognized as a student group at CCA.

81. Dr. Fiss saw that the people at the table had hung up a handmade poster that called for the “liberation of Palestine” “From the River to the Sea.” Dr. Fiss was troubled by the display, as her understanding of the “River to the Sea” phrase is associated with the Palestinian nationalist movement, advocating for a free and independent Palestine from the Jordan River to the Mediterranean Sea, which encompasses the entirety of historic Palestine, including what is now Israel. Dr. Fiss’s interpretation of the phrase was supported by a map of Israel with the colors of the Palestinian flag over the entire country and that map was part of the display behind the SJP students’ table. See Exhibit L. Plaintiff took a photo of the students in front of this sign because it was concerning to her and she wanted to understand whether such displays in any way violated CCA policy.

82. Dr. Fiss asked the students if she could take a photograph of their display and they said yes. When Dr. Fiss took the photograph, the students were smiling and seemed proud and happy that Dr. Fiss was taking a picture of them with their artwork and paraphernalia.

83. The students did not object in any way to Dr. Fiss taking this photograph. Indeed, Plaintiff had a clear right to take the photograph under California law because when Plaintiff took the photograph, the SJP members were at that table precisely because it was in public, and they therefore had no expectation of privacy. At no time during their interaction—even after Dr. Fiss intimated that she was not wholly in agreement with the SJP members about the issues they were discussing—did those students inform or in any way indicate to Plaintiff that they had

revoked her consent to being photographed by Plaintiff, nor did they ask Plaintiff to delete the photograph. In fact, their demeanor suggested a level of comfort and approval with her photographing them.

84. Dr. Fiss asked one of the women staffing the table what they meant by the slogan “From the river to the sea, Palestine will be free.” Rather than answer her, this woman turned around and ripped the poster down. That woman then said to Dr. Fiss, “Now will you call your elected representatives?”

85. Next, that student told Dr. Fiss that Hamas didn’t have real weapons to commit the crimes they were accused of committing after they broke through the barrier into Israel on October 7. The student made this claim despite the plethora of videos taken by the Hamas terrorists themselves committing those crimes. The student further informed Dr. Fiss that even within Gaza, Hamas had no weapons and that the only missiles Hamas had were unexploded Israeli ordnance.

86. Dr. Fiss asked the students where they got their news from, and what sources were they reading? At this point, another of the students, later identified by a CCA Human Resources official as Maryiam Alwael, explained she was from the Middle East and therefore knew the real story there. When Dr. Fiss asked that student where in the Middle East she was from, the student said Kuwait. Dr. Fiss then brought up the challenges Palestinians faced in Kuwait, citing the deportation of over 300,000 Palestinians from Kuwait in 1991. Alwael responded by expressing confusion, claiming she had no knowledge of the events mentioned by Dr. Fiss and attributing it to a potential language barrier or misunderstanding.

87. Dr. Fiss highlighted the nuanced perspectives among Middle Eastern students at CCA regarding Hamas and Iran's support. She underscored her commitment to intellectual

diversity, explaining her deliberate consumption of varied news sources and academic viewpoints to guard against the echo chamber effect perpetuated by social media. Thus Dr. Fiss told those sitting at the table that she wasn't sure that all students from the Middle East would necessarily agree with their views on Hamas, noting that she knew several Middle Eastern students at CCA, for example, who opposed Hamas and Iran's support for the terrorist group. Dr. Fiss then told the students that she herself tries to read news and academic articles from a wide range of political viewpoints to ensure that she doesn't end up in an echo-chamber as is so prevalent with the influence of social media.

88. Alwael responded with a confident smile and said that she "liked her echo chamber." It was clear then to Dr. Fiss that there was no reason to continue the conversation. Dr. Fiss walked away.

89. At no time during this discussion did Dr. Fiss raise her voice, violate the personal space of any of the people staffing the table, threaten them or anyone else with violence, with a poor academic grade, or anything else (or even identify herself as a faculty member) nor did Plaintiff denounce their views, or insult them.

90. Throughout the entirety of the conversation detailed above, Dr. Fiss exhibited a commendable level of professionalism and adherence to legal and ethical standards. At no point did she engage in behavior that could be construed as coercive or threatening. Dr. Fiss maintained a respectful distance from the individuals present and refrained from any form of verbal or physical aggression. Importantly, she did not exploit her position as a faculty member to intimidate or influence the discussion. Furthermore, Dr. Fiss demonstrated a commitment to academic freedom by engaging in a civil exchange of ideas, without denouncing or insulting the viewpoints of the individuals involved.

**C. PLAINTIFF IS DISCIPLINED FOR HER COMPLETELY INNOCENT AND ENTIRELY PROFESSIONAL INTERACTION WITH A STUDENT**

91. On November 16, 2023, Plaintiff was informed by Suzanne Guevarra, CCA's Director of Human Resources, that a complaint had been filed against her. Dr. Fiss was not told who had filed the complaint against her, or what the complaint was about, nor was she provided with a copy of the complaint.

92. Guevarra sent Dr. Fiss an email which stated, "I am reaching out to you with regards to a recent complaint," and only indicated that Dr. Fiss was accused of having had a "harassing and discriminatory interaction" with a student. See Nov. 16, 2023, email from Guevarra to Fiss, attached hereto as Exhibit M.

93. The student who claimed Plaintiff had harassed and discriminated against her, Dr. Fiss later learned, was the SJP person at the table, Maryiam Alwael, the one who claimed she was from Kuwait but who denied Kuwait's expulsion of 300,000 Palestinian Arabs during the Gulf War.

94. The only other CCA professor who publicly identified as being Jewish and supporting the right of Israel to exist also had a complaint filed against her by CCA SJP students just one day later, November 17.

95. On that day the SJP and its followers held a protest against Israel which blocked the entrance to the campus. That other Jewish professor had to get through the crowd in order to get to a class she teaches. No words were exchanged between that professor and the students blocking the entrance to CCA. But the student who lodged the complaint against the other Jewish professor wrote in that complaint that the professor "stepped over a group of peaceful students respectfully mourning the names of Palestinians murdered by the State of Israel." The

complaint stated that the professor's passage "felt disrespectful." That Jewish professor was informed of the complaint by CCA'S Human Resources department on November 27, 2023.

96. At no time was Dr. Fiss provided a copy of the complaint filed against her. Instead, the substance of the complaint was described to Plaintiff orally by CCA's Director of Human Resources Suzanne Guevarra, when Dr. Fiss was "interviewed" about the complaint over Zoom on November 20, 2023.

97. On December 12, 2023, Plaintiff was informed that the complainant and witnesses in support of the complaint had been interviewed by Guevarra. The only witnesses were the two other students at the SJP table.

98. Plaintiff was not present when those interviews took place and had no opportunity to hear her accusers or to cross-examine any of the people who testified regarding Dr. Fiss's conduct or any other aspect of the incident.

99. When Dr. Fiss was informed that a complaint had been filed against her, she was also informed that the investigation into the complaint would extend to any witnesses Plaintiff identified. Plaintiff identified such a witness –Tricia Brand, who is the CCA Vice President for Diversity, Equity, Inclusion and Belonging.

100. Dr. Fiss had, by happenstance, encountered Brand immediately after the interaction between Fiss and the SJP students, and Dr. Fiss had recounted to Brand what had occurred. After Brand was interviewed by the Human Resources department, Brand informed Dr. Fiss during a conversation that she couldn't believe HR was investigating her, and that Brand told the investigator that, when Brand and Dr. Fiss spoke immediately after the interaction between her and the Complainants, Dr. Fiss was not aggravated in any way, was completely

reasonable in her account of the brief interaction, and that Dr. Fiss had informed Brand at that time of the use of the slogan “From the River to the Sea” at the table.

101. Brand further informed Dr. Fiss that students had also painted an unauthorized mural with the same slogan (“From the River to the Sea”); that Brand disapproved of the mural and that campus facilities had been instructed to paint it over.

102. It is Plaintiff’s understanding, based on the adjudication against her, that the complaint asserted that Dr. Fiss had violated three provisions of the CCA handbook:

- a. [4.C. Prohibition of Unlawful Harassment](#),
- b. [E.4. Dismissal or Discipline for Adequate Cause Relating to Misconduct and](#)
- c. [Appendix B: AAUP Statement on Professional Ethics](#)

103. Dr. Fiss was informed on December 12, 2023 that she was found to have violated CCA policy [4.C. Prohibition of Unlawful Harassment](#), [2.E.4. Dismissal or Discipline for Adequate Cause Relating to Misconduct](#) and [Appendix B: AAUP Statement on Professional Ethics](#).

104. Among Dr. Fiss’s alleged offenses was the fact that when she learned one of the women with whom she was speaking was from Kuwait, “you began explaining the history of Alwael’s country to her.” This is clearly a reference to the fact that Dr. Fiss had identified facts which the student did not know or acknowledge— exactly the activity which is normally considered to be the job of a college professor. The CCA decision also found that “The nature and tone of the statements by you caused the students to reasonably believe that you were using your positional power as a Professor to get the outcome you sought, which was for the students to agree with your point of view.” This finding was made in spite of the fact that during the interaction in the school hallway on October 26, 2023, the students did not know who Dr. Fiss

was and did not know that she was a CCA professor. See December 12, 2023, letter to Dr. Fiss, attached hereto as Exhibit N.

105. As a result of the decision, CCA imposed the following sanctions upon Plaintiff:

a. You must immediately cease this and similar behavior with any student or employee of the college and if you continue to do so again, you will remain subject to further disciplinary action that could result in discharge for cause.

b. When you were taking photos of Maryiam, she consented because she thought you were from Student Life. When she realized this was not the case, she felt threatened by your actions and became concerned about what you were going to do with these photos. You must immediately delete any photos you took of her and any other students who were a part of this interaction.

c. You must take the mandatory Supporting Diversity, Equity, Inclusion and Belonging (Ranked Faculty Required Training) as well as retake the Preventing Harassment & Discrimination - Non-Supervisor Training (both are in Workday) no later than December 31, 2023.

d. You must confirm your review of the attached policies by signature that pertain to anti-harassment and discrimination provided to you by Human Resources. As with any complaint process, please do not contact the students involved in this matter.

106. Dr. Fiss informed Suzanne Guevarra that she did not agree with the results of the investigation, and she asked what the procedure was for appeal. Dr. Fiss was informed by CCA that there is no appeal process. See Exhibit O.

**D. CCA’S DISCRIMINATORY APPLICATION OF DISCIPLINARY PROCESS**

107. The contrast could not possibly be starker between the treatment of Dr. Fiss’s factual statement to students in CCA’s hallway, on the one hand, with the explicit calls for rape and murder published by CCA itself and ratified by its administration. And the hard evidence available in Dr. Fiss’s complaint about the DECOLONIZATION IS NOT A DINNER PARTY CCA Instagram post, which consisted of the post itself, something publicly available and accessible for all to see with no issues of credibility or reliability as to its content, in contrast to the hearsay, repeated by all three students with the same ideological viewpoint and commitment and therefore hostility to Plaintiff’s own viewpoint and understanding, which CCA treated as independent corroboration of the harassment complaint leveled against Dr. Fiss by Maryam Alweal. In contrast, the allegations against Dr. Fiss rely solely on hearsay from three students who share the same ideological stance and exhibit clear hostility towards her perspective. Despite this, CCA treated these hearsay accounts as independent corroboration of the harassment complaint filed by Maryam Alweal.

108. Such treatment deviates significantly from principles of fairness and impartiality. The identical testimonies from the two additional students, who shared the same ideological bias, were improperly considered independent and impartial. In any investigation aspiring to genuine impartiality and fairness, the identical testimony of the three SJP students should not be regarded as tipping the balance of credibility. CCA’s acceptance of these three students’ identical accounts as credible evidence undermines the integrity of the investigative process. Elevating the value of their testimonies solely based on their quantity, despite their shared ideological predisposition, compromises the essence of a fair-minded inquiry.

109. This approach by CCA distorts the balance of credibility and reflects a profound institutional bias, effectively silencing dissenting viewpoints under the pretense of objectivity. Such conduct raises serious questions about the impartiality and fairness of the investigation, as well as the institution's commitment to upholding the principles of academic freedom and unbiased adjudication.

110. The testimony of CCA DEIB director Tricia Brand should have been given at least equal weight as she was impartial and if anything, as a member of CCA's administration, would be expected to be unswayed by partiality. And yet Brand's input was not even mentioned in the decision finding Dr. Fiss to have violated school policies.

111. CCA officially praised the Instagram post DECOLONIZATION IS NOT A DINNER PARTY statement as an exercise in academic freedom, both initially—in response to Dr. Fiss's complaint about it—and ultimately—when, months after it was posted, an outside consultant was brought in belatedly to conduct an investigation about the Instagram post. CCA rejected any claim that the post was improper because it “continues to [focus] on modeling productive and respectful disagreement within our diverse community.”

112. Thus, CCA's position is that Dr. Fiss and all Jews at CCA must engage in productive and respectful disagreement about whether murdering all of the Jews in Israel—i.e., half of the world's Jewish population—is or is not a good idea.

113. An environment in which a Jew must engage in respectful disagreement about whether it is a legitimate form of expression to call for and to justify the brutal murder of Jews is an environment hostile to Jews.

114. Dr. Fiss's entirely factual statement to a student about the lives of Palestinians in Kuwait, by contrast, was censured by CCA, as was her encouragement to students to seek

information from sources with which they might not agree. The students' rejection of that advice – "I like my echo chamber" – reflects exactly the state of mind that college is supposed to cure, and that it is the job of a college professor to address. It is the very essence of academic freedom for a professor to encourage students to learn things they don't already know.

115. Dr. Fiss was punished for doing her job simply and only because Dr. Fiss is a Jew committed to the existence of the State of Israel as a Jewish State.

116. The result of this distorted process, of CCA's indifference to the plight of the Jews on its campus, and CCA's willingness to sanction even a tenured Jewish academic on the strength of baseless accusations, is that Dr. Fiss has been left fearful that any step she takes relating in any way to Israel, the Middle East, or a Muslim student will be the basis for further discipline, a finding of wrongdoing, and punishment, including dismissal.

117. This fear has been conveyed to the CCA leadership, which has resolutely refused to do anything about it—even to provide guidance so that conflicts between Dr. Fiss and others can be avoided.

118. One example of this problem is the series of interactions Dr. Fiss has had with a Muslim student in her class who has, in the wake of the finding of wrongdoing against Dr. Fiss, repeatedly insisted that Dr. Fiss give a high grade to classwork which ignored the assignment and instead simply repeated Muslim claims regarding its right to the Temple Mount, upon which is also located the Al-Aqsa Mosque, using religious websites as her source material.

119. This student, who repeatedly sat through entire sessions of Dr. Fiss's class with her cellphone at her ear—despite announcements being made repeatedly that no cellular devices were permitted during class—also repeatedly informed Dr. Fiss that she "expects an A" in Dr. Fiss's class.

120. Dr. Fiss repeatedly asked CCA for advice on how to deal with this student so that a conflict can be avoided, and so that Dr. Fiss is not, again, charged with a disciplinary offense on the basis of her interaction with a student who appeared hostile.

121. All such requests for assistance were rebuffed.

122. Dr. Fiss asked that, in light of the fact that this student wanted to focus again on Al-Aqsa for her final project, that another faculty member be assigned to work alongside Dr. Fiss in guiding the student through the required stages of research and writing, preferably with someone who was more familiar than Dr. Fiss with Islamic art and architecture. This request was also denied.

123. The result of these refusals to assist, combined with the existing record created by CCA against Dr. Fiss, and the student's intentional demand for approval of her religious views as adequate academic work (regardless of the actual academic quality of the work) have left Dr. Fiss unable to determine how to do her job in a manner that simultaneously

- a. upholds Dr. Fiss's academic standards and
- b. enables Dr. Fiss to avoid being sanctioned again.

124. CCA has refused to assist Dr. Fiss in achieving both of these goals, leaving Dr. Fiss with the clear understanding that CCA is unwilling to have Dr. Fiss achieve both of these goals.

125. On March 13, 2024, Dr. Fiss obtained a Right to Sue letter from the U.S. Equal Employment Opportunity Commission, which is attached hereto as Exhibit P.

126. Defendant CCA receives financial assistance from the U.S. Department of Education and is therefore subject to suit under Title VI of the Civil Rights Act of 1964.

127. Discrimination against Jews is prohibited under Title VI of the Civil Rights Act of 1964, as reflected in the written policies of the Department of Education's Office for Civil Rights. See e.g., U.S. Dep't of Educ., OCR Dear Colleague Letter:

Addressing Discrimination Against Jewish Students (May 25, 2023), <https://www2.ed.gov/about/offices/list/ocr/docs/antisemitismdcl.pdf>; U.S. Dep't of Educ., OCR-000127, Questions and Answers on Executive Order 13,899 (Jan. 19, 2021), <https://www2.ed.gov/about/offices/list/ocr/docs/qa-titleix-anti-semitism-20210119.pdf>; U.S. Dep't of Educ., OCR-00107, Dear Colleague Letter: Combatting Discrimination Against Jewish Students (2017), <https://www2.ed.gov/about/offices/list/ocr/docs/jewish-factsheet-201701.pdf>; Letter from Thomas Perez, Asst. Att. Gen., Civ. Rts. Div., U.S. Dep't of Justice to Russlyn Ali, Asst. Sec'y for Civ. Rts., OCR, U.S. Dep't of Educ. Re: Title VI and Coverage of Religiously Identifiable Groups (Sept. 8, 2010), [https://www.justice.gov/sites/default/files/crt/legacy/2011/05/04/090810\\_AAG\\_Perez\\_Letter\\_to\\_Ed\\_OCR\\_Title%20VI\\_and\\_Religiously\\_Identifiable\\_Groups.pdf](https://www.justice.gov/sites/default/files/crt/legacy/2011/05/04/090810_AAG_Perez_Letter_to_Ed_OCR_Title%20VI_and_Religiously_Identifiable_Groups.pdf); U.S. Dep't of Educ., OCR Dear Colleague Letter: Religious Discrimination (Sept. 23, 2004), <https://www2.ed.gov/about/offices/list/ocr/religious-rights2004.html>.

128. On November 7, 2023, OCR had issued a new Dear Colleague Letter, reminding schools that receive federal financial assistance that they have a

responsibility to address discrimination against Jewish, Muslim, Sikh, Hindu, Christian, and Buddhist students, or those of another religious group, when the discrimination involves racial, ethnic, or ancestral slurs or stereotypes; when the discrimination is based on a student's skin color, physical features, or style of dress that reflects both ethnic and religious traditions; and when the discrimination is based on where a student came from or is perceived to have come from...

Harassing conduct can be verbal or physical and need not be directed at a particular individual.

U.S. Dep't of Educ., OCR Dear Colleague Letter: Shared Ancestry or Ethnic Characteristics (Nov. 7, 2023), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-202311-discrimination-harassment-shared-ancestry.pdf>.

129. OCR further explains that "the following type of harassment creates a hostile environment: unwelcome conduct based on shared ancestry or ethnic characteristics that, based on the totality of circumstances, is subjectively and objectively offensive and is so severe or

pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity." *Id.* And it repeats its longstanding admonition that "[s]chools must take immediate and effective action to respond to harassment that creates a hostile environment." *Id.*

130. Defendant's discriminatory application of its nondiscrimination policy and willful failure to enforce its nondiscrimination policy discriminates against Jews by: giving formal recognition to the discriminatory SJP student group; using a kangaroo court-star chamber proceeding to support the gaslighting efforts of student members of SJP who were frustrated by Plaintiff's refusal to comply with their demand that she contact her government representatives to demand a ceasefire in Gaza, by "finding" Plaintiff guilty of "harassing" the students who in fact had harassed her.

131. All of the CCA actions at issue in this case are related to one another because all are driven by, and applications of, CCA's policy of enforcing hostility to Plaintiff's ethnic, ancestral and religious commitments. All of these acts are therefore intentional acts of discrimination by CCA against Plaintiff on the basis of her ethnicity, ancestry and religion. They manifest CCA's deliberate indifference to the impact on Plaintiff of CCA's enforcement of its official policy mandating hostility to Israel and Zionism.

132. Defendants' discriminatory application of its policy and failure to enforce its nondiscrimination policy has created an environment that is hostile towards Jews and Zionists, including Jewish faculty members such as Plaintiff.

133. The hostility towards Jewish and Zionist members of the CCA community is severe enough that it interferes with Plaintiff's ability to participate in the programs and activities of the school. As a result of this hostility, the CCA campus has become a hostile environment

and Plaintiff's presence on campus a source of continuing tension and pain to her. This has dramatically affected, and harmed, Plaintiff's ability to work, her ability to enjoy her work, the way she works and it has even changed where she works, driving Plaintiff to do as much of her scholarship off campus as possible.

134. As described in the allegations above, Plaintiff cannot function as a scholar and cannot participate in the intellectual life of CCA campus because in asking informed questions, let alone expressing her opinions, she runs the risk of retaliatory targeting. Because CCA has already installed one "strike" against Plaintiff in her personnel file with its unfounded determination that she harassed a student, Plaintiff is chilled in her ability to teach, to speak to students and to speak to colleagues because she is always conscious that any manifestation of a view contrary to CCA's imposed orthodoxy will result in another accusation of harassment and then her termination as a result of another proceeding as biased and unfounded as the one that CCA has already conducted against her.

**E. THE FLOODING OF CCA WITH MATERIALS WHICH  
ADVOCATE FOR THE DESTRUCTION OF ISRAEL AND  
JUSTIFY THE RAPE AND MURDER OF ISRAEL'S JEWISH  
CITIZENS, MAKES THE CAMPUS IN WHICH SUCH MATERIAL  
IS USED A HOSTILE ENVIRONMENT FOR PLAINTIFF AND  
OTHER JEWS**

135. When Jews are attacked anywhere in the world because they are Jews, Jews around the world experience that attack as an attack, or a threat to, them personally. When such an attack on Jews is claimed to be a moral act on the ground that the victims are Jews living in the Jewish homeland – as if that were a justification for the attack -- that attack is experienced by Jews around the world as an attack on, and a threat to, them and their identity.

136. Repeating this justification for attacks on Jews constitutes harassment of Jews as Jews, and therefore harassment of Jews on the basis of their religion, and their ethnic ancestry. It also constitutes harassment of Israelis on the basis of their nationality.

137. The flooding of CCA with posts, signs and official departmental statements which make these assertions creates a hostile environment for Jews, which denies Jews the ability to work on an equal basis with others.

138. This is so because Identity-based stress or trauma stems from direct or indirect behavior or messaging that communicates hatred, vitriol, delegitimization, disaffirmation, or dehumanization towards individuals who share a social identity or have shared ancestry. Bias, microaggression, or discrimination aimed at individuals within a group causes exponentialized identity-based stress to that group (Stevenson, H. C. (2014). *Promoting Racial Literacy in Schools: Differences that Make a Difference*. Teachers College Press).

139. Vicarious identity-based trauma affects people within a marginalized or vilified social identity group who see others in their group being singled out, mistreated, punished, or subjected to stressful identity-based encounters. This can engender a sense of helplessness to intervene given asymmetrical power relations. When symbolic violence occurs or is depicted, or advocated for in classrooms or schools, it can traumatize people within the same group as those against whom such symbolic violence occurs or is depicted, when such people are unable to respond to their own or someone else's benefit during discriminatory acts or mistreatment (Stevenson, H. C. (2014). *Promoting Racial Literacy in Schools: Differences that Make a Difference*. Teachers College Press).

140. Structural conditions in campuses that exacerbate identity-based trauma include ignoring identity-based trauma happening to members of such an academic community by not

attending to bias, microaggressions, or discrimination (Yip, T., Cham, H., Wang, Y., & Xie, M. (2022)).

141. This constitutes vicarious identity-based trauma as Jews see systems fail them and other Jews, and see whistle blowers and victims of antisemitism being pathologized, mistreated, misjudged, or blamed for trying to address their own or others' identity-based trauma. Victim blaming is a form of identity-based trauma and antisemitism. (Berman S. L, Montgomery M. J., Ratner K. (2020). Trauma and identity: A reciprocal relationship? *Journal of Adolesc.* Feb;79:275-278. doi: 10.1016/j.adolescence.2020.01.018. Epub 2020 Feb 6. PMID: 32036171.

142. “A sense of belonging—the subjective feeling of deep connection with social groups, physical places, and individual and collective experiences—is a fundamental human need that predicts numerous mental, physical, social, economic, and behavioral outcomes....There is general agreement that belonging is a fundamental human need that all people seek to satisfy (Baumeister, R. F., & Leary, M. R. (1995), *The need to belong: Desire for interpersonal attachments as a fundamental human motivation, Psychological Bulletin*, 117(3), 497–529. <https://doi.org/10.1037/0033-2909.117.3.497> ; Ryan, R. M., & Deci, E. L. (2000). Self-determination theory and the facilitation of intrinsic motivation, social development, and well-being. *American Psychologist*, 55(1), 68–78. <https://doi.org/10.1037/0003-066X.55.1.68>; Leary, M. R., & Kelly, K. M. (2009). Belonging motivation. In M. R. Leary & R. H. Hoyle (Eds.), *Handbook of individual differences in social behavior* (pp. 400–409). The Guilford Press. “Other studies have examined the benefits that arise from a sense of belonging. Studies have identified numerous positive effects of having a healthy sense of belonging, including more positive social relationships, academic achievement, occupational success, and better physical and mental health (e.g., Allen, K. A., Kern, M. L., Rozek, C. S., McInerney, D., & Slavich, G. M. (2021)).

Belonging: A Review of Conceptual Issues, an Integrative Framework, and Directions for Future Research. *Australian journal of psychology*, 73(1), 87–102, <https://doi.org/10.1080/00049530.2021.1883409>). A lack of belonging is linked to an increased risk for mental and physical health problems. Research shows that persistent stress and identity-based trauma leads to a lack of a sense of belonging, which also has deleterious effects on academic performance, social engagement, and sense of belonging as members of an academic community.

143. A traumatizing environment is a hostile environment, always. A hostile or traumatizing environment/academic culture is one in which members of such a community feel disaffirmed or blamed for mistreatment aimed at them based on their social identity group or where they are held to a double standard of what constitutes a protection-worthy social identity. In these conditions, persons in a targeted identity group such as Jews at CCA are treated with essentializing and deficitizing behaviors based on unchecked (and in some cases unconscious) bias, which discriminates against Jews based on assumptions about their Jewish shared ancestry, belief in Israel, Judaism, or Zionism (Bacha, C., Einhorn, S., & Lieberman, S. (2021). ‘If you prick me, do I not bleed?’: Antisemitism, racism and group analysis —some thoughts. *Group Analysis*, 54(3), 388-401. <https://doi.org/10.1177/0533316421996111>; Berman S. L, Montgomery M. J., Ratner K. (2020). Trauma and identity: A reciprocal relationship? *Journal of Adolesc.* Feb;79:275-278. doi: 10.1016/j.adolescence.2020.01.018. Epub 2020 Feb 6. PMID: 32036171).

144. For Jews post-October 7th, antisemitism has become the cudgel of identity-based trauma at the hands of peers and justified by leaders given their own unconscious antisemitism—a perception of Jewish people expressed as hatred, vitriol, delegitimization, or dehumanization

that uses tropes of conspiracy and control to justify demonizing, stereotyping, degrading, or harming Jews individually or collectively (Bacha, et al., 2021).

145. A hostile academic environment negates Jews' sense of psychological safety in who they are and in experiencing 'unconditional positive regard' (Maslow, A. H. (1943). A Theory of Human Motivation. *Psychological Review*, 50, 370-396.

<http://dx.doi.org/10.1037/h0054346>), and in their identity, which includes the centrality of their ancestral homeland, Israel. This unchecked cultural and religious bias/violation constitutes a traumatizing academic environment and culture for Jews that impacts their ability to feel safe enough to work; it harms their sense of identity, both on campus and in the world. These institutional conditions create a hostile academic environment for Jews who are treated as "colonizers" even as they are clearly being actively marginalized (Berman, et al., 2020).

146. The materials posted and omnipresent at CCA, and at issue here, convey exactly these claims about, and attacks on, Jews living in the State of Israel. They therefore create an academic environment that is hostile to Jews and Israelis on the campus in which they are used.

**Count I**  
**TITLE VII OF THE CIVIL RIGHTS ACT OF 1964**  
**Hostile Work Environment**  
**And**  
**Disparate Treatment**

147. Plaintiff incorporates by reference the allegations set forth in the preceding paragraphs.

148. Plaintiff Fiss suffered intentional discrimination because of her religion and ethnic origin. The discrimination was both severe and pervasive.

149. Defendant's discriminatory behavior included, but was not limited to, the following:

- a. Persecuting Defendant via a kangaroo court-star chamber proceeding for having the temerity to object to an SJP chapter's advocating the destruction of Israel by calling for the "liberation" of Palestine "From the River to the Sea"; finding her guilty of "harassing" students and of purportedly causing the students to believe that Plaintiff used her positional power as a Professor to get the outcome she sought, which was for the students to agree with her point of view; and subjecting her to disciplinary action for what was in effect gaslighting by students frustrated by Plaintiff's refusal to comply with their demand that she contact her government representatives to demand a ceasefire in Gaza. The proceeding itself lacked the most basic due process protections, including allowing Plaintiff to see the charges against her, or to confront her accusers.
- b. Maintaining a hostile environment by allowing and contributing to a vast disparity in university responses to news events, specifically:
  - i. Discriminatory college responses to news events in publicly condemning violence against blacks, gender violence in Iran, anti-Muslim violence in New Zealand and elsewhere, but consistently refusing to condemn violence against Jews and Israelis including the 2018 mass murder in Pittsburgh, the 2019 attack in Poway, and the October 7, 2023, murder, rape, torture, decapitation, mutilation, and kidnapping of civilians in Israel.
  - ii. Although it refused to condemn the brutal October massacre of Israelis and Jews, Defendant CCA, by its leadership and faculty, *endorsed* the massacre. Specifically, on October 11, 2023, the college's Critical Ethnic

Studies Program posted to its official Instagram account that “Decolonization is Not a Dinner Party.” It further stated, “decolonization is not a metaphor,” expressed solidarity with Palestine, asserted that it teaches students about “Israel’s colonial legacy in Palestine,” and called for collective resistance. The Deans of H&S, Dean of Fine Arts, Senior Director for Faculty Affairs, various academic departments at the college, several department chairs, and many faculty members “liked” the post, thereby approving of its message.

- c. Forcing Plaintiff to retake several mandatory Supporting Diversity, Equity, Inclusion and Belonging training.

150. In addition to the discriminatory actions specifically targeting Plaintiff, CCA tolerated or fostered discriminatory actions that contributed to creating a pervasive atmosphere of discrimination targeting Jews and Zionists.

151. Defendant treated Plaintiff differently from, and worse than, the way it treated others who do not share Plaintiff’s ancestral, ethnic and religious commitments.

152. The discrimination has detrimentally affected Plaintiff.

153. The discrimination would detrimentally affect a reasonable non-Jew and non-Zionist in her position.

154. Defendant CCA had actual or constructive notice of the hostile environment against Dr. Fiss on the basis of religion and ethnic origin in that Dr. Fiss repeatedly brought these issues to the attention of CCA leadership until, finally, she realized that nothing she said or did would induce that leadership to correct the hostile environment.

155. Defendant CCA did not have an adequate or effective procedure for handling hostile environment complaints.

156. Defendant CCA knew or should have known of the hostile environment and failed to stop it.

157. Defendant CCA negligently failed to discipline or take prompt and adequate remedial action.

158. Defendant CCA violated Title VII of the Civil Rights Act of 1964, as amended, and the Civil Rights Act of 1991.

159. As a result of ethnic and religious harassment by CCA, Plaintiff has suffered and will continue to suffer damages.

160. Defendant CCA engaged in these discriminatory practices with malice or with reckless indifference to Plaintiff's federally protected rights.

**Count II**  
**Title VI of the Civil Rights Act of 1964**  
**U.S.C. 2000d et seq.**

161. Plaintiff repeats and realleges the allegations of the preceding paragraphs as though fully stated herein.

162. CCA receives financial assistance from the United States Department of Education and is therefore subject to suit under Title VI of the Civil Rights Act of 1964.

163. Discrimination against Jews and/or Israelis—including based on actual or perceived ancestry, race, ethnic characteristics, or national origin, including the shared commitment to Israel—is prohibited under Title VI, as reflected not only in decades of Title VI jurisprudence, but also in the written policies of the Office of Civil Rights of the United States Department of Education.

164. Dr. Fiss is and identifies as Jewish, and her status and identification as a Jew committed to Israel brings her within the scope of Title VI's protections.

165. Title VI prohibits a recipient of federal funds from intentionally treating any individual worse, even in part, because of his or her ancestry, race, ethnic characteristics, or national origin.

166. The acts and omissions of CCA and its administrators subjected, and continue to subject, Dr. Fiss to discrimination and harassment on the basis of her actual and/or perceived Jewish ancestry, race, ethnic characteristics, or national origin.

167. CCA and its administrators had actual notice that such discrimination and harassment, over which CCA has substantial control and the authority to remediate, was and continues to be so severe, pervasive, and objectively offensive that it created and continues to create a hostile environment based on Jewish ancestry, race, ethnic characteristics, or national origin which discriminates against Dr. Fiss on the basis of her Jewish ancestry, race, ethnic characteristics or national origin.

168. CCA and its administrators intentionally discriminate against Dr. Fiss on the basis of her actual and/or perceived Jewish ancestry, race, ethnic characteristics, or national origin, as exhibited by CCA's and its administrators' deliberate indifference to the antisemitic abuse, harassment, and intimidation of Dr. Fiss, in violation of Title VI. Specifically, CCA and its administrators clearly and unreasonably failed, and continue to fail, to cure or otherwise adequately, appropriately, and meaningfully address, ameliorate, or remedy the discrimination against Dr. Fiss and the hostile environment that she is forced to endure at CCA because of her race, ethnic characteristics, or national origin. Additionally, CCA continues to grossly fail to take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile

environment, and prevent the harassment from recurring. Such unlawful deliberate indifference causes Dr. Fiss to be subjected to a hostile educational environment.

169. The environment at CCA, which has been rendered hostile for Dr. Fiss as a result of her Jewish ancestry, race, ethnic characteristics, or national origin, is sufficiently severe, pervasive, persistent, and offensive such that CCA discriminates against Dr. Fiss, imposing working conditions on her employment that CCA does not impose on non-Jewish faculty.

170. CCA and its administrators actively and intentionally engage in this pattern of severe and/or pervasive discrimination.

171. CCA and its administrators also directly and intentionally discriminate against Dr. Fiss, with her actual or perceived Jewish ancestry, race, ethnic characteristics, or national origin a substantial or motivating factor in CCA's actions.

172. CCA continues to unreasonably fail to act, or to act grossly inadequately and discriminatorily, and with leniency, tolerance, deliberate indifference, and/or unjustifiable delay, in applying its policies to known or reported incidents involving antisemitism or where the victim or complainant is a Jewish and/or Israeli student or faculty member, including Dr. Fiss. As detailed above, CCA's actions, inactions, and conduct were, and continue to be, intended to treat Dr. Fiss differently as a Jewish faculty member as compared to other similarly situated non-Jewish and/or non-Israeli faculty.

173. CCA's violations of Title VI are the actual, direct, and proximate causes of Dr. Fiss's injuries.

174. As a result of the foregoing, Dr. Fiss has suffered, and continues to suffer, substantial damages, in amounts to be determined at trial.

175. Dr. Fiss has been and will continue to be injured because CCA has and will continue to intentionally discriminate against her on the basis of Jewish ancestry, race, ethnic characteristics, or national origin.

176. Plaintiff is entitled to appropriate injunctive relief under Title VI, because CCA has knowledge of, and has been and continues to be deliberately indifferent to, a hostile environment that is severe, persistent, and pervasive; there is no adequate or speedy remedy at law to prevent CCA from continuing to discriminate against Dr. Fiss on the basis of Jewish ancestry, race, ethnic characteristics, or national origin in violation of Title VI; and the harm Dr. Fiss will otherwise continue to suffer is irreparable.

177. Plaintiff is entitled to attorneys' fees and costs pursuant to 42 U.S.C. § 1988.

**Count III**  
**Cal. Educ. Code § 66270**

178. Plaintiff incorporates by reference the allegations set forth in the preceding paragraphs.

179. The California Education Code provides:

Cal. Educ. Code § 66270

No person shall be subjected to discrimination on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any characteristic listed or defined in Section 11135 of the Government Code or any other characteristic that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code, including immigration status, in any program or activity conducted by any postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid.

180. Plaintiff has suffered discrimination and hostile environment, as described above.

181. The discrimination has detrimentally affected Plaintiff.

182. The discrimination would detrimentally affect a reasonable non-Jew and non-Zionist in her position.

183. Defendant CCA had actual or constructive notice of the hostile environment against Plaintiff on the basis of religion and ethnic origin.

184. Defendant CCA did not have an adequate or effective procedure for handling hostile environment Complaints.

185. Defendant CCA knew or should have known of the hostile environment and failed to stop it.

186. Defendant CCA negligently failed to discipline or take prompt and adequate remedial action.

187. Defendant CCA receives, or benefits from, state financial assistance and/or enrolls students who receive state student financial aid.

188. Defendant CCA violated Cal. Educ. Code § 66270.

189. As a result of harassment by CCA on the basis of Plaintiff's religion, race, national origin, and/or ancestry, Plaintiff has suffered and will continue to suffer damages.

190. Defendant CCA engaged in these discriminatory practices with malice or with reckless indifference to Plaintiff's state-protected rights.

**Count IV**  
**Cal. Gov't Code § 12920, Cal. Labor Code**

191. Plaintiff incorporates by reference the allegations set forth in the preceding paragraphs.

192. California civil rights law prohibits workplace discrimination and harassment on the basis of religion, race, national origin, and ancestry.

193. Plaintiff has suffered discrimination and hostile environment, as described above.

194. The discrimination has detrimentally affected Plaintiff.

195. The discrimination would detrimentally affect a reasonable non-Jew and non-Zionist in her position.

196. Defendant CCA had actual or constructive notice of the hostile environment against Plaintiff on the basis of religion and ethnic origin.

197. Defendant CCA did not have an adequate or effective procedure for handling hostile environment Complaints.

198. Defendant CCA knew or should have known of the hostile environment and failed to stop it.

199. Defendant CCA negligently failed to discipline or take prompt and adequate remedial action.

200. Defendant CCA violated California Government Code § 12920 and the California Labor Code.

201. As a result of harassment by CCA on the basis of Plaintiff's religion, race, national origin, and/or ancestry, Plaintiff has suffered and will continue to suffer damages.

202. Defendant CCA engaged in these discriminatory practices with malice or with reckless indifference to Plaintiff's state-protected rights.

**Count V  
Breach of Contract**

203. Plaintiff incorporates by reference the allegations set forth in the preceding paragraphs.

204. Defendant CCA's Policy on Discrimination and Unlawful Harassment states:

If an employee believes that he or she has been subjected to any form of unlawful discrimination, he or she should submit a written complaint to the director of human resources, the president of the college, and/or his or her supervisor. The complaint should be specific and include the names of the individuals involved as well as the names of any witnesses. CCA will, in all appropriate cases, immediately undertake an effective, thorough, and objective investigation.

CCA will endeavor to protect the privacy and confidentiality of all parties involved, as much as is possible. If the college determines that unlawful discrimination has occurred, effective remedial action will be taken, commensurate with the severity of the offense, up to and including termination. Appropriate action will also be taken to deter any future discrimination. Whatever action is taken will be made known to the complaining employee. The college will not retaliate against an employee for filing any good-faith complaint and will not knowingly permit retaliation by management, coworkers, or other employees.

205. Defendant CCA's Policy on Discrimination and Unlawful Harassment further

states:

#### Unlawful Harassment

In accordance with applicable law, CCA prohibits sexual harassment and harassment based on race, color, national origin, ancestry, religion, creed, disability, gender, gender identity, medical condition, marital status, sexual orientation, age, or any other basis protected by federal, state, or local law. The college is committed to taking all reasonable steps to prevent harassment.

206. Defendant CCA's Policy on Discrimination and Unlawful Harassment sets out the

following procedures:

#### Reporting Procedure

CCA's reporting procedure provides for an immediate, thorough, and objective investigation of any harassment claim; appropriate disciplinary action against anyone found to have engaged in prohibited harassment; and appropriate remedies to any victim of harassment.

1. Employees who believe they have been harassed on the job should as soon as possible submit a verbal or (preferably) written complaint to the director of human resources, the president of the college, and/or their supervisor. The report should include details of the incident(s), the names of individuals involved, and the names of any witnesses. Supervisors and managers should immediately refer all harassment reports to the director of human resources or the president of the college.
2. The college will immediately undertake an effective, thorough, and objective investigation of the harassment allegations. The determination regarding the alleged harassment will be communicated to the employee(s) who complained and the accused harasser(s).
3. If CCA determines that harassment has occurred, the college will take effective remedial action commensurate with the circumstances, including appropriate disciplinary action (up to and including termination) against anyone found to have engaged in prohibited harassment, and appropriate remedies to any victim of harassment. Appropriate action will also be taken to deter any future harassment.

Whatever action is taken against the harasser(s) will be communicated to the employee(s) who complained, to the extent that the college believes it is appropriate to do so.

207. Defendant CCA breached its contract with Plaintiff by failing to conduct an effective, thorough, or objective investigation of the complaints against her. In particular, CCA failed to properly consider and weigh the testimony of the one witness Plaintiff had identified in connection with the SJP complaint against her.

208. As a proximate result of the aforesaid breaches, plaintiff suffered damages.

209. All conditions precedent for a breach of contract claim have been met.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Fiss respectfully prays that this Court order the following relief:

1. An injunction preliminarily and permanently enjoining Defendant from continuing to discriminate against Jews, including Plaintiff and others, who share a commitment to the existence of Israel as a Jewish State;
2. A writ of mandate permanently requiring Defendant to enforce all of its policies, including its Policy on Nondiscrimination and its all-comers policy on an even-handed basis, equally for Jews who support the existence of Israel as a Jewish State and for all other persons, ensuring that Jewish members of the CCA community are protected, with respect to their physical safety and otherwise, from discrimination on the basis of their Jewish identity, including those for whom Zionism is an integral part of that identity.
3. An injunction preliminarily and permanently mandating that Defendant take action to end the hostile environment for Jews on campus by (i) communicating to the entire CCA community via broadcast e-mail or a similar medium that CCA will condemn, investigate, and punish any conduct that harasses members of the Jewish

community, or others, on the basis of their ethnic or ancestral background or their commitment to the existence of Israel as a Jewish State; (ii) providing education about anti-Semitism, including by conducting mandatory training for administrators and professors, in a manner that comprehends the full spectrum of antisemitic conduct, including denial of the right of the Jewish people to self-determination and the centrality of Israel to Judaism; (iii) instituting strict review and approval policies to ensure that the administration does not conduct, or finance, programs that deny equal protection to Jewish members of the CCA community including those for whom Zionism is an integral part of their identity.

4. A declaratory judgment that Defendant knowingly and intentionally failed to enforce its policies to protect Jewish members of the CCA community has violated Plaintiff's rights under (i) the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution, (ii) the Free Exercise Clause of the U.S. Constitution, (iii) Title VI of the 1964 Civil Rights Act, 42 U.S.C. § 2000d et seq., and (iv) Plaintiffs' right to contract as ensured by 42 U.S.C. § 1981, and therefore that CCA is ineligible to receive tuition payments with federally subsidized student loans or with benefits paid by the Veterans Administration;
5. Compensatory and punitive damages;
6. Plaintiff's reasonable attorneys' fees pursuant to 42 U.S.C. § 1988.
7. Any other relief which this Court may deem just and proper.

Dated: September 5, 2024

Respectfully submitted,

By: /s/ Mark L. Javitch  
Mark L. Javitch (CA 323729)  
Javitch Law Office  
3 East 3rd Ave. Ste. 200  
San Mateo, CA 94401  
Tel: (650) 781-8000  
Fax: (650) 648-0705  
mark@javitchlawoffice.com

Lori Lowenthal Marcus\* (PA 53388)  
Jerome Marcus\* (PA 50708)  
Rachel Ghatan (CA 204355)  
The Deborah Project  
P.O.B. 212  
Merion Station, PA 19066  
610.880.0100  
lorilowenthalmarcus@deborahproject.org  
jmarcus@deborahproject.org  
rghatan@deborahproject.Org

\*Admitted Pro Hac Vice

*Attorneys for Plaintiff*

# **EXHIBIT A**



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

8<sup>TH</sup> FLOOR, 5 POST OFFICE SQUARE  
BOSTON, MA 02109-3921

REGION I

CONNECTICUT  
MAINE  
MASSACHUSETTS  
NEW HAMPSHIRE  
RHODE ISLAND  
VERMONT

April 3, 2023

President Suresh V. Garimella  
University of Vermont  
Office of the President  
85 South Prospect Street  
344-353 Waterman Building  
Burlington, VT 05405

*By email:* [President@uvm.edu](mailto:President@uvm.edu)

Re: Complaint No. 01-22-2002  
The University of Vermont and State Agricultural College

Dear President Garimella:

This letter is to advise you of the outcome of the complaint that the U.S. Department of Education (Department), Office for Civil Rights (OCR) received against The University of Vermont and State Agricultural College (the University) on October 2, 2021. The Complainant alleged that the University failed to respond appropriately to complaints that students were subjected to discrimination at the University based on their Jewish ancestry.

OCR is responsible for enforcing Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulation at 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, or national origin, including shared ancestry or ethnic characteristics, under any program or activity that receives Federal financial assistance from the Department. As a recipient of Federal financial assistance from the Department, the University is subject to these laws and regulations.

OCR reviewed records and information provided by the Complainant, the University, and publicly available information. In particular, OCR reviewed the University's student code of conduct as well as its policies and procedures for resolving complaints of discrimination on the basis of national origin. OCR also reviewed records relating to alleged 2021 antisemitic incidents and the University's responses. Additionally, OCR reviewed documents that the University provided relating to antidiscrimination initiatives as well as publicly available news reports and press releases. OCR also interviewed seven current University employees, one former employee, and the [redacted content]. Through the University and Complainant, OCR requested interviews with students who complained and/or were witnesses to incidents described in this letter; none of the students responded to OCR's requests.

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

As explained further below, before OCR completed its investigation, the University entered into the enclosed resolution agreement (Agreement) that OCR will monitor to ensure the University's compliance with the Agreement's terms and with Title VI and its implementing regulation.

### **Legal Standard**

The regulation implementing Title VI, at 34 C.F.R. § 100.3, provides that no person shall, on the basis of race, color, or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program to which Title VI applies. Harassment that creates a hostile environment for individuals with a shared ancestry, such as students of Jewish descent, is national origin discrimination under Title VI.

A recipient violates Title VI if one of its agents, acting within the scope of their official duties,<sup>1</sup> has treated an individual differently on the basis of national origin in the context of an educational program or activity without a legitimate, nondiscriminatory reason so as to interfere with or limit the ability of the individual to participate in or benefit from the services, activities, or privileges provided by the recipient.

Harassment creates a hostile environment when the conduct is sufficiently severe, persistent or pervasive that it interferes with an individual's ability to participate in or benefit from a recipient's program. The harassment in most cases consists of more than casual or isolated incidents based on national origin. If OCR determines that the harassment was sufficiently severe that it would have adversely affected the enjoyment of some aspect of the recipient's educational program by a reasonable person, of the same age and national origin as the victim, under the same circumstances, OCR will find that a hostile environment existed. A recipient may be found to have violated Title VI if it has effectively caused, encouraged, accepted, tolerated, or failed to correct a hostile environment based on national origin harassment of which it has actual or constructive notice.

To establish a violation of Title VI under the hostile environment theory, OCR must find that: (1) a hostile environment based on national origin existed; (2) the recipient had actual or constructive notice of a hostile environment based on national origin; and (3) the recipient failed to respond adequately to redress the hostile environment based on national origin. Whether conduct constitutes a hostile environment must be determined from the totality of the circumstances. OCR will examine the context, nature, scope, frequency, duration, and location of the national-origin-based harassment, as well as the identity, number, and relationships of the persons involved.

A recipient is charged with constructive notice of a hostile environment if, upon reasonably diligent inquiry in the exercise of reasonable care, it should have known of the discrimination. In other words, if the recipient could have found out about the harassment had it made a proper inquiry, and if the recipient should have made such an inquiry, knowledge of the harassment will be imputed to the recipient.

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<sup>1</sup> When determining whether an agent or employee was acting within the scope of their official duties such that the individual has actual or apparent authority over the individuals involved, OCR takes into account such factors as the relationship between the parties and the time, location, and context of the alleged conduct.

Once a recipient has actual or constructive notice of a hostile environment, the recipient has a legal duty to take reasonable steps to eliminate it. OCR evaluates the appropriateness of the responsive action by assessing whether it was reasonable, timely and effective. The appropriate response to a hostile environment based on national origin must be tailored to redress fully the specific problems experienced at the recipient as a result of the harassment.

### **Summary of Evidence Obtained**

The University is located in Burlington, Vermont and enrolls 11,326 undergraduate and 1,395 graduate students. The University houses more than 5,800 students on campus. UVM Hillel (Hillel) is an affiliate organization of the University with a mission “to enrich the lives of Jewish undergraduate and graduate students so that they may enrich the Jewish people and the world.” Hillel leases its on-campus building from the University; the building’s second floor houses University students (affiliation with Hillel and/or identification as a student of Jewish ancestry is not a requirement for Hillel housing).<sup>2</sup> According to the [redacted content], the University enrolls between two and three thousand students who identify as Jewish. Over 80% of the University’s students are involved in at least one club or organization; there are over 200 such organizations recognized by the University’s Student Government Association (SGA).

The Complainant alleged that the University failed to respond appropriately to the following incidents:

- In April and May 2021, a University [redacted content]<sup>3</sup> who identified herself as a teaching assistant (Teaching Assistant) made a series of antisemitic public tweets.
- On September 24, 2021, students threw “small rocks” and “items with a sticky substance” at the Hillel building. When one student living in the dormitory portion of the building called out and “asked them to stop throwing things,” one of the students outside responded, “Are you Jewish?”
- In May 2021, two student groups excluded Jewish students from group membership and one of the groups made antisemitic comments on social media.

### **Relevant Policies and Procedures**

The University’s Equal Opportunity in Educational Programs and Activities and Non-Harassment Policy (Equal Opportunity Policy) prohibits discrimination, including but not limited to harassment, on the basis of national or ethnic origin, among other protected classes, in the University’s programs or activities.<sup>4</sup> The University’s Discrimination, Harassment, and Sexual

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<sup>2</sup> <https://www.uvm.edu/news/story/hillels-new-home>.

<sup>3</sup> [redacted content].

<sup>4</sup> <https://www.uvm.edu/sites/default/files/UVM-Policies/policies/equaledu.pdf> (citing Title VI). The University’s Handling and Resolving Discrimination, Harassment, and Sexual Misconduct Complaints Operating Procedure (Operating Procedure) clarifies that this prohibition extends to discrimination, including but not limited to

Misconduct Policy (Discrimination Policy) applies to all students and employees, amongst other groups. The University’s Code of Student Conduct (Code) provides that alleged violations of the Discrimination Policy are governed by that policy, rather than by the Code.<sup>5</sup>

The Discrimination Policy states that, upon receipt of information indicating that an incident of discrimination occurred involving members of the University community, a “UVM Reporter”<sup>6</sup> must, among other actions, immediately complete a Bias, Discrimination, & Harassment Incident Reporting Form (Reporting Form)<sup>7</sup> or send an email to the University’s Affirmative Action & Equal Opportunity Office (AAEO) with all information the individual knows; anyone who is not a UVM Reporter is strongly urged to notify AAEO when they receive information that an incident of discrimination has occurred. The Discrimination Policy specifically references, and provides a hyperlink to, the University’s Designation and Responsibilities of UVM Reporters Operating Procedure. It also notes that individuals may contact AAEO directly to make a disclosure and learn about University-based options for support and resolution, with information regarding how to do so in person, by phone, by email and online via the Reporting Form. The Discrimination Policy further provides the AAEO Director’s name, title, office and email address, and telephone number; and hyperlinks to the University’s Handling and Resolving Discrimination, Harassment, and Sexual Misconduct Complaints Operating Procedure (Operating Procedure).

Off-campus conduct that does not occur in connection with a University sponsored or affiliated program or activity is subject to the Discrimination Policy where the conduct may reflect adversely on the respondent’s fitness to remain enrolled in an academic program or employed in their position, pose an imminent or continuing threat of harm to the safety of University community members, or create or contribute to a hostile environment on campus. Resolution options and procedures for incidents covered by the Discrimination Policy are detailed in the Operating Procedure.

The Operating Procedure provides that, upon notice to AAEO that an individual has been the subject of alleged discrimination, AAEO will provide outreach to that individual. The University’s policies and procedures do not state whether AAEO will contact the individual reporting discrimination, to solicit additional information or for any other reason, if the reporting

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harassment, on the basis of ancestry. See <https://www.uvm.edu/sites/default/files/UVM-Policies/policies/discrimcomplaints.pdf>. The University’s Discrimination, Harassment, and Sexual Misconduct Policy (Discrimination Policy) clarifies that this prohibition extends to all academic, extracurricular, and other programs and activities sponsored by the University, and further clarifies that harassment may encompass verbal, written, visual, or physical communications and/or conduct. See <https://www.uvm.edu/sites/default/files/UVM-Policies/policies/sexharass.pdf>. Both the Discrimination Policy and the Operating Procedure prohibit retaliation against persons who report discrimination, including but not limited to harassment, or participate in related proceedings.

<sup>5</sup> <https://www.uvm.edu/sites/default/files/UVM-Policies/policies/studentcode.pdf>.

<sup>6</sup> UVM Reporters include, but are not limited to, members of the University’s Police Services and contract security personnel; a supervisor, manager, or higher level employee; a chair, director, or dean of an academic unit; full and part time faculty members; personnel with oversight responsibilities for students or student employees; advisors to recognized student organizations; coaches and coaching staff; and any other individuals considered to be a Campus Security Authority pursuant to the Clery Act. See <https://www.uvm.edu/sites/default/files/UVM-Policies/policies/campussecurity.pdf>.

<sup>7</sup> [https://cm.maxient.com/reportingform.php?UnivofVermontAAEO&layout\\_id=5Done](https://cm.maxient.com/reportingform.php?UnivofVermontAAEO&layout_id=5Done).

individual is not the subject of the alleged discrimination. The Operating Procedure further provides that if the individual who has been the subject of alleged discrimination expresses interest in a University resolution process, or if the nature of the disclosure prompts the AAEO Director to take independent action, AAEO will determine (1) whether the respondent was subject to the Discrimination Policy at the time of the alleged conduct and (2) whether the conduct as alleged could be a violation of the Discrimination Policy. If the AAEO Director determines that AAEO lacks jurisdiction or the matter is not otherwise appropriate for resolution, AAEO will provide appropriate referrals to other resources.

The University's policies and procedures do not state a timeframe for completion of this intake and jurisdictional review process, nor do they specify the circumstances in which the AAEO Director would take independent action, as described above. If an individual subjected to alleged discrimination does not want to participate in the resolution process or expresses a desire for their identity to be kept confidential, the Operating Procedure states that the AAEO Director will weigh such requests against the University's responsibility to provide a safe and nondiscriminatory environment for all members of the campus community.

If the AAEO Director determines that AAEO has jurisdiction and the matter is otherwise appropriate for resolution, the Operating Procedure specifies the procedures that will be used to receive, investigate, and resolve alleged discrimination. This includes how to file complaints, the availability of supportive measures, the steps that will be taken as part of an investigation (including, but not limited to, review of any documents related to the complaint and a requirement for documented interviews with individuals who have information about the complaint, including the complainant, the person accused of discrimination, witnesses, and anyone mentioned as having relevant information), and how the parties will be notified of the outcome of the complaint. Upon a finding of discrimination, the Operating Procedure specifies that the University will take all necessary steps to prevent recurrence and remedy discriminatory effects.

#### Allegations Concerning the Teaching Assistant

On May 17, 2021, the [redacted content] filed a Reporting Form with AAEO alleging that University students had subjected Jewish students at the University to antisemitic harassment. The Reporting Form included an attached document containing a collection of tweets, including many from the Teaching Assistant with an accompanying photograph of her. Amongst the tweets from the Teaching Assistant were the following that she posted in April and May 2021:

- “its [sic] good and funny” “for me, a TA, to not give zionists credit for participation” and to give the students for whom she was a teaching assistant “-5 points for going on birthright,” “-10 points for posting a pic with a tank in the Golan heights,” and “-2 points just cuz I hate ur vibe in general”;
- “why do so many zionists work for the writing center[?]”;
- the word “Kristallnacht” above a picture of a damaged storefront with accompanying Hebrew text from another user;

- “i get the indelible [sic] surge [sic] to cyber bully” when receiving “posts from UVM Zionist Instagram accounts”;
- “serotonin rush of bullying zionists on the public domain”;
- an Instagram account that the Complainant asserted had been organized by a group of Jewish students at the University had “turned off comments :(,” tweeted in response to another post stating “let the cyber bullying [of that account] begin”;
- “free trips, both sides discourse,” and the statement “my family lives in tel aviv” should be “politically unthinkable, worthy of private and public condemnation, [and] likened to historical and contemporary segregationist movements”; and
- “who stole the israeli flag on [redacted content]? i just wanna. . . tell you how cool and special and loved you are” and “defend [your] honour” for “anonymously doing good.”

The [redacted content] informed OCR that he received these tweets from Jewish students at the University who felt threatened by them. In the Reporting Form, the [redacted content] also cited a tweet by another student stating that “it’d be a shame if something happened to the israeli flag” off campus, noting that a student’s Israeli flag at that location had been “vandalized” shortly afterward. While the [redacted content] used the word “vandalized,” all of the other evidence OCR reviewed indicated that the flag had been stolen. As noted above, the Teaching Assistant subsequently tweeted in praise of this theft.

The [redacted content] filed another Reporting Form with AAEO the same day alleging that University students had subjected Jewish students to additional antisemitic harassment. OCR reviewed the Reporting Form, which included the Facebook posts with a handle containing the Teaching Assistant’s first and middle name and another photograph with a likeness to the one accompanying her Twitter account handle. The Reporting Form included an attached document containing numerous Facebook posts, including many from an individual whom the [redacted content] informed OCR was the Teaching Assistant based on the name and photograph associated with the account. The [redacted content] informed OCR that he received these Facebook posts from a Jewish student at the University who had participated in, and felt threatened by, this conversation.

That same day, the [redacted content] filed another Reporting Form with AAEO alleging that he had been subjected to antisemitic harassment when the Teaching Assistant had tweeted earlier that day that the [redacted content] . . . issu[ed] defamatory statements against students of color,” noting that “[h]e blocked me and . . . unlisted his account from search even when I use a different account.” Other University students agreed that he was “bully[ing]” and “disenfranchis[ing]” students. The [redacted content] wrote in the Reporting Form that these tweets made him “feel like I may be unable to participate in university activities for fear of my personal safety” and wanted “to ensure that nobody at UVM is harassed for being Jewish.”

On May 28, 2021, a member of the University’s Bias Response Team<sup>8</sup> emailed the [redacted content] that AAEO had forwarded to the Bias Response Team all his Reporting Forms and attachments and thanked him “for noting the significant impact all of this has had on so many students (and you!).”

On August 2, 2021, the [redacted content] emailed the [redacted content] that he “had not received any follow up” regarding the Reporting Forms since the above-referenced communications. The next day, the [redacted content] responded that he would “check in with the Bias Response Program and we will be in touch soon.”

On September 6, 2021, the [redacted content] sent a letter to the University President thanking him for speaking with the [redacted content] three days earlier “about the pressing issues facing Jewish students” at the University. The letter states that the [redacted content] “continue to hear from parents, students, and alumni about the egregious bias Jewish students have experienced.” The [redacted content] appended some, but not all, of the social media posts included with the May 2021 Reporting Forms he had previously filed, which he stated “were referenced in your call” with the [redacted content] as well as “student quotes about the bias and harassment regarding their shared ancestry and ethnicity.”

On September 14, 2021, the University’s Provost met with twelve Jewish students at Hillel. According to notes taken by the Provost as she listened to the students’ concerns, which the University provided to OCR, the students “wanted to discuss their experiences . . . with antisemitism,” including, amongst other incidents, a teaching assistant who had “threatened to decrease grades of all Jewish students.” The Provost wrote that she would “follow-up” on this report “with [a] possible misconduct complaint” and subsequently wrote that the University could not “find if [the Teaching Assistant] did any TA’ing in the spring.” The Provost subsequently informed OCR that she concluded that the Teaching Assistant had not served as a teaching assistant during the spring 2021 semester because she could find no record indicating that she had. However, the Provost also informed OCR that she was unsure if anyone had asked the Teaching Assistant if she had served as a teaching assistant prior to the fall 2021 semester.

On September 21, 2021, the [redacted content] emailed the chair of the Teaching Assistant’s department (“Department Chair”) to inform him that the Teaching Assistant had “made statements on Twitter that implied that students’ ethnicity, religion, or national origin may impact her grading decisions.” The [redacted content] attached a memo to the Department Chair entitled “Report about [Teaching Assistant].” The memo states that the University’s Vice Provost for Student Affairs (Vice Provost) had emailed the [redacted content] the social media posts that the [redacted content] had sent to the University President on September 6, 2021. The memo further states that on September 16, 2021, the [redacted content] met with the Teaching Assistant’s course coordinator, who confirmed that the Teaching Assistant’s “duties . . . include grading assignments on a bi-weekly basis and answering student questions” and “there have been

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<sup>8</sup> The University’s website states that “[a]ll incident reports [submitted on the Reporting Form] are directly routed to [AAEO] to review for policy violations. If the report does not violate University policy, it will be sent to the Chair of the Bias Response Team for review.” [https://www.uvm.edu/deanofstudents/frequently\\_asked\\_questions](https://www.uvm.edu/deanofstudents/frequently_asked_questions). While University employees confirmed that this is how incident reports are routed, the University’s policies and procedures do not otherwise specify the role of the Bias Response Team.

no complaints or concerns about [her] work so far.” The memo quotes the Teaching Assistant’s tweets about deducting points from certain students and “zionists work[ing] for the writing center”; it does not reference any of the other social media posts that the [redacted content] had provided to AAEO in May 2021 or to the President earlier in September. In the [redacted content]’s memo, she concludes that “there is insufficient information for AAEO to conduct a formal investigation<sup>9]</sup> for discrimination or harassment” because “AAEO has not received any complaints from students that [the Teaching Assistant] discriminated against or harassed them in connection with her role as” a teaching assistant.

The [redacted content] subsequently said to OCR that the fact that AAEO had not received any complaints from students regarding the Teaching Assistant was dispositive of her decision that AAEO would not investigate the Teaching Assistant’s actions. When told of this assertion by the [redacted content] informed OCR that he agreed with her conclusion. While the [redacted content] could not specifically recall discussing the Teaching Assistant, he informed OCR that the [redacted content] would have brought it to his attention and he would have had to approve her determination. Both the [redacted content] confirmed that they had only considered the tweets that she quoted in the memo, and not any of the Teaching Assistant’s other social media posts, when deciding whether to investigate the Teaching Assistant’s actions. They also confirmed that AAEO did not interview anyone prior to reaching its decision. The [redacted content] informed OCR that she expected the Teaching Assistant’s professor to decide whether any action, outside the jurisdiction of the Discrimination Policy, should be taken in response to the Teaching Assistant’s actions.

On September 24, 2021, the University’s counsel informed the [redacted content] that the Teaching Assistant’s professor met with the Teaching Assistant, who “admitted they were her tweets” and “was apologetic.” Counsel noted that the Teaching Assistant “no longer ha[d] any grading responsibilities in the course.” On September 30, 2021, the professor emailed the University’s counsel that he had informed the Teaching Assistant “that she could no longer be a TA for” his course and had “regraded all items she originally graded.”

While not acknowledging a misstep in his Title VI jurisdictional analysis, the [redacted content] told OCR that he believed the University’s policies are “flexible enough to conduct an investigation with an unknown complainant” and AAEO would exercise discretion to conduct an investigation depending on the particular facts presented. However, the [redacted content] informed OCR that he could not recall AAEO investigating any potentially discriminatory incident that had come to the University’s attention without a complaint having been filed with an identified victim or victims.

#### Allegations Concerning the UVM Hillel Building

On the evening of September 24, 2021, a University police officer (Responding Officer) received a call from a [redacted content] about items being thrown at the Hillel building. The Responding Officer observed “pieces of foam all over the ground and stuck to the [rear] door.” He met with the [redacted content] (“the complainants”) and summarized his conversation with them in his written report as follows: “They advised they’d seen a group of college-aged men outside the

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<sup>9</sup> The University’s policies and procedures do not distinguish between formal and informal investigations.

building tampering with bikes . . . [and] yelled down to the men to leave the bikes alone. The complainants advised the males then began throwing . . . rocks . . . at windows but I . . . did not observe any damage to any windows.” The Responding Officer determined that there was no video of the incident available. The [redacted content] filed a Reporting Form regarding this incident and called the Responding Officer to report that the complainants “told him that the males had asked [them] if they were Jewish” and threw foam and rocks at the building after learning that they were Jewish. The Responding Officer wrote that, “[a]s this would constitute a bias or hate-motivated incident,” the [redacted content] “was advised so the bias-response team could be made aware.”

The next morning, another police officer (Follow-up Officer) went to the Hillel building and identified the foam as debris from large puffball mushrooms. One of the complainants told the Follow-up Officer that she did not know if “the group was targeting her or [Hillel] because of their Jewish affiliation,” but “described the question about if she was Jewish as ‘random.’” The other complainant told the Follow-up Officer that she “advis[ed] them not to break anything, as then they would have to call [the] police,” then closed the window to her room after “[t]he group mocked that statement” and “started to throw small rocks at the window they just closed.”

Another [redacted content] student informed the Follow-up Officer that the group might have been there to talk to [redacted content] subsequently called the Follow-up Officer and informed her that “his friends . . . ‘threw rocks at his window until he came out.’” He emphasized “that his friends ‘were not racist’ and had no ill-intent.” When the Follow-up Officer asked “if he would feel comfortable sharing the[ir] names,” he “seemed extremely unsure about that and wanted to check in with his friends.” The Follow-up Officer asked him to call her if he felt as though he could provide any further information, but the [redacted content] never did.

Prior to the Follow-up Officer’s inquiry, the [redacted content] emailed the [redacted content] that he would “put out a campus message on this” and emailed the [redacted content] a draft campus advisory regarding a “Bias Related Incident (Antisemitism)” at the Hillel Building. The [redacted content] subsequently emailed the [redacted content] to inform her that he told the [redacted content] he was “not sure this fits with a . . . campus advisory.” He noted that the [redacted content] had “disagree[d] in terms of knowing it is an antisemitic event.”

On September 27, 2021, the [redacted content] spoke with the [redacted content] to discuss AAEO’s role in matters like this and emailed the students who had spoken with the police officers to notify them of their ability to file a complaint with AAEO and offer supportive resources such as counseling.

Later that day, the [redacted content] emailed the [redacted content] and Vice Provost to inform them that the Bias Response Team had convened and did “not see this case as an act of targeted identity based bias.” She noted that the “Team was also in support of a larger community-wide communication going out from the Provost to support and affirm the Jewish community given the totality of the adverse experiences they have had for several years”; she did not recall receiving a response to this recommendation.

### Allegations Concerning @ShareYourStoryUVM

On May 14, 2021, a Jewish University student filed a Reporting Form regarding an Instagram account allegedly run by University students with the handle @ShareYourStoryUVM. The student alleged that the account made “antisemitic [sic] and hateful” comments, including “zionists make me sick.” She also alleged that the account “said they will not engage in discussion with zionists.” Another Jewish student filed a Reporting Form on May 16, 2021, similarly complaining about antisemitic comments made by the @ShareYourStoryUVM account.

As described above, on May 17, 2021, the [redacted content] filed three Reporting Forms with AAEO alleging that University students had subjected Jewish students at the University to antisemitic harassment. The document attached to one of those forms contains several posts from @ShareYourStoryUVM, including posts stating that the account was created “by a small team of college students” who believed that “Israelis have put so many Palestinians through” “disgusting sexual abuse”; stated that they “cannot stand with . . . Israel and Zionists” and must “hold our peers accountable for their pro-Israel or Zionist stances”; and noted that “we follow the same policy with zionists that we follow with those trolling or harassing others: blocked.”

AAEO received these Reporting Forms but did not investigate them or document the reason for its decision not to do so. Instead, AAEO referred the matter to the Bias Response Team. The [redacted content] informed OCR that AAEO did not have jurisdiction over the account because it was run anonymously and was not associated with a registered student organization at the University. The other University employees that OCR interviewed shared this understanding regarding the account’s operation and lack of affiliation with the University.

In late May 2021, a member of the Bias Response Team emailed both students who had submitted the Reporting Forms referenced above and offered to meet with them to discuss the matter and offer supportive resources. The Bias Response Team member also emailed an address associated with the account on July 8 and September 17, 2021, to share the students’ concerns, but the owner of the account did not respond.

### Allegations Concerning the Revolutionary Socialist Union Book Club

As referenced above, on September 14, 2021, the Provost met with Jewish students at Hillel to listen to their concerns about antisemitism at the University. The Provost’s notes from that meeting state that the “UVM Book Club was identified as one group that had specifically excluded Jewish students or Zionists from participating” and “it is unclear if there are subgroups under this group but it looks like the Revolutionary Socialist Union [RSU] is one.”<sup>10</sup>

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<sup>10</sup> On May 1, 2021, the “UVM Revolutionary Socialist Union” posted on Instagram that “[n]o . . . Zionism . . . of any kind will be tolerated.” <https://www.instagram.com/p/COVe0nSnDM9/>. An archived version of the UVM Book Club’s website as it appeared on August 25, 2021, shows a link to RSU which, when clicked, states that RSU is “[u]naffiliated with” the University. <https://web.archive.org/web/20211011171849/https://bookclub.w3.uvm.edu/groups/rsu/>.

On September 15, 2021, the Vice Provost emailed Student Affairs staff to ask if RSU was an “individually recognized SGA club[.]” On September 20, 2021, the University’s [redacted content] responded that the [redacted content] had informed him that the UVM Book Club “promote[s] various other book clubs off campus” on its website, one of which was the RSU book club. The [redacted content] reminded the [redacted content] of that club’s obligations, as a registered student organization, to comply with the University’s nondiscrimination policies.

On September 30, 2021, a student emailed the Provost a link to RSU’s draft constitution, which states that every RSU member must pledge “no” to Zionism. On October 4, 2021, the [redacted content] emailed the Vice Provost that he had confirmed that RSU was an “unrecognized SGA organization,” “receive[d] no funding from SGA,” and was not “afforded any University privileges,” so the University did “not have any jurisdiction over” it.

On September 22, 2022, the [redacted content] emailed the [redacted content] to remind them “that you cannot sponsor” “non-UVM affiliated[.] book clubs” and requested that they add language to the UVM Book Club’s website “that makes it clear that these groups are unaffiliated with the UVM Book Club” and are not “sponsored by you or the University.” The [redacted content] confirmed the following day that the website had been updated.

The [redacted content] informed OCR that they could not recall if AAEO was notified of this incident, and they confirmed that they did not investigate this incident.

#### Jewish Students Shared Other Experiences with the University

As referenced above, on May 17, 2021, the [redacted content] filed Reporting Forms with AAEO. In addition to the Teaching Assistant allegations and the @ShareYourStoryUVM allegations, he alleged that University students subjected Jewish students to other antisemitic harassment. The [redacted content] attached statements Jewish students shared with him such as: a Jewish student “was “upset [and] feared for her safety” as a result of vulgar social media posts; another Jewish student felt scared and unsafe due to residence hall neighbors who were “all posting very anti-Semitic posts on their social media accounts” and had been “physically aggressive in the past”; another Jewish student was “strongly considering transferring to a campus that is safe for Jewish students because of the[se] incidents”; another Jewish student was “frustrated, scared, and upset with the things their friends were posting on social media” and “felt alone and targeted for her . . . identity”; and another Jewish student who “is Israeli” had begun to “fear to share where her family is from.” In total, the [redacted content] presented statements from 23 Jewish students. No names were provided; rather, the statements were attributed to the students’ initials and class year. The [redacted content] recalled reaching out to the [redacted content] to encourage him to share the names of the affected students. Neither the [redacted content] nor the [redacted content] could recall whether any names were ultimately shared.

On September 17, 2021, the [redacted content] wrote to the [redacted content] that, “during the April/May 2021 timeframe,” the University had “received information about . . . deeply frustrated and frightened students connected to Hillel.” She noted that she had “met with a few students and your staff to learn what they were experiencing,” “informed Senior Leaders,” and

the Vice Provost and Provost subsequently met “with the concerned students on May 19, 2021.” The [redacted content] wrote “that the discussion resulted in both leaders feeling informed and expressed their commitment and care for the students and the Jewish community.”

As referenced above, on September 14, 2021, the Provost met with twelve Jewish students at Hillel who wanted to discuss their experiences with antisemitism at the University. According to the Provost’s contemporaneous notes, student reports included: “feel[ing] they cannot wear a star of David or any other signs of Jewish heritage as they will be belittled and berated”; Jewish students received “no support or communication from the administration to call out the antisemitism that exists” at the University; “formal AAEO . . . complaints were [not] made because they don’t want to reveal their names for fear of retribution [and] increased harassment”; and a request that the University “[e]stablish a clear and timely disciplinary process for students . . . perpetuating antisemitic incidents on campus.”

The University did not conduct investigations or otherwise try to ascertain additional information regarding any of the incidents or comments that the Provost captured in her meeting notes. The Provost offered her support to the students during the September 14, 2021 meeting and a follow-up meeting on September 30, 2021.

#### Actions Taken by the University Since the Opening of the OCR Complaint

Soon after OCR commenced its investigation of this complaint and in response to media coverage that immediately followed, the University’s President issued a letter to “Members of the UVM Community” asserting that media coverage of OCR’s opening of this investigation “has painted our community in a patently false light” and detailing the University’s actions and perspective responsive to the allegations in the complaint that prompted this investigation. The letter went on to note “[t]here is no doubt that antisemitism exists in the world and, despite our best efforts, in our community. Exploitation of fear and divisiveness by advancing false claims that UVM failed to respond to complaints of antisemitic behavior creates confusion and a sense of insecurity for the entire community.” Later in his statement, he wrote “[once] opened, the OCR investigation gives the [U]niversity the opportunity to respond to the allegations. UVM vigorously denies the false allegation of an insufficient response to complaints of threats and discrimination, as will be demonstrated in our response to OCR.”<sup>11</sup>

Since the President’s initial statement, the University has taken numerous steps to demonstrate support for Jewish students, faculty, and staff. For example, the President issued another public statement condemning antisemitism at the University.<sup>12</sup> In fall 2022, the University launched a website “for those who want to learn more about opportunities to explore, connect with, and celebrate Jewish life at” the University, “to provide information about resources the [U]niversity has employed to combat antisemitism,” and “to support our Jewish students.”

The website notes that various University offices have met with and reviewed climate data with Jewish students; sent University leaders to national and international meetings focused on combating on-campus antisemitism and otherwise engaged with outside organizations in these

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<sup>11</sup> <https://www.uvm.edu/news/president/ocr-investigation>.

<sup>12</sup> <https://www.uvm.edu/news/story/president-suresh-garimella-condemns-antisemitism-uvms-campus>.

efforts; and began a review of the Discrimination Policy. The [redacted content] informed OCR that, since the commencement of OCR’s investigation, the University was “actively listening” to the concerns of the University’s Jewish community “in a way that I wasn’t sure they were before.”

### **Analysis**

As noted above, a recipient violates Title VI if one of its agents, acting within the scope of their official duties, has treated an individual differently on the basis of national origin in the context of an educational program or activity without a legitimate, nondiscriminatory reason so as to interfere with or limit the ability of the individual to participate in or benefit from the services, activities, or privileges provided by the recipient. Whether the harassment was by an employee or other agent or a peer, once a recipient has notice of a national origin hostile environment, OCR evaluates the appropriateness of the recipient’s responsive action by assessing whether it was reasonable, timely, and effective. While a recipient need not adopt a grievance procedure to resolve alleged Title VI violations, OCR will evaluate whether it followed any such procedure it chooses to adopt.

OCR has concerns that the University’s failure to investigate, consistent with Title VI, allegations of antisemitic harassment that it received from the [redacted content] may reflect University officials, acting within the scope of their official duties, treating individuals differently on the basis of national origin in the context of an educational program or activity without a legitimate, nondiscriminatory reason, resulting in interference with or limitation of the ability of the individuals to participate in or benefit from the University’s educational program. Likewise, OCR is concerned that the failure to investigate allegations of harassment of which the University had notice may have allowed a hostile environment for some Jewish students to persist at the University.

While the University’s policies and procedures do not require an identified victim in order for AAEO to investigate, the University declined to investigate the Teaching Assistant’s conduct. That decision was made without interviewing the Teaching Assistant, whom they could have identified based on the social media handle names associated with her actual name and two accompanying photographs, students in her course, or staff in the writing center. Additionally, the University only considered a small subset of the allegedly discriminatory social media posts (including those sent from a different account but which the University may have connected to the Teaching Assistant upon a reasonably diligent inquiry) when reaching this determination. While the University ultimately responded to the Teaching Assistant’s conduct, it was done outside of the Discrimination Policy and not until four months after the [redacted content]’s complaints were filed.<sup>13</sup> Further, while the Teaching Assistant wrote that she was a teaching assistant during the spring 2021 semester, it is not clear that the University fully investigated whether she had served as a teaching assistant prior to the fall of 2021. There is also no

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<sup>13</sup> As relevant here, the University’s policies and procedures do not state a timeframe for completion of AAEO’s intake and jurisdictional review process, specify the circumstances in which the AAEO Director would take independent action without a complaint being filed, or state whether AAEO will contact the individual reporting discrimination, to solicit additional information or for any other reason, if the reporting individual is not the subject of the alleged discrimination.

indication that the University informed any of the students who were affected by the Teaching Assistant's harassing statements that the University had taken steps to ameliorate any hostile environment and to ensure that the students' equal access to education would not be affected, including because the course professor independently evaluated the students' grades.

With respect to the Hillel incident, it is not clear that the University's police or other staff responding to the incident were applying the Discrimination Policy or Operating Procedure to the allegations. For example, it appears that the Bias Response Team, rather than AAEO, concluded that the group's allegedly antisemitic actions were not discriminatory. Further, while the Code prohibits students from impeding or obstructing a University investigation, it does not appear that the University considered whether there was a need to compel the [redacted content] to disclose the identities of his friends so that the University could interview them, as may have been required to determine whether their conduct violated the Discrimination Policy. In this instance again, there is no indication that the University took steps to ameliorate any hostile environment for affected students who had experienced or learned about rocks thrown at windows with the associated question whether the residents were Jewish and to ensure that the students' equal access to education would not be affected.

With respect to the allegations concerning @ShareYourStoryUVM and RSU, it is similarly not clear that the University applied the Discrimination Policy or Operating Procedure to the allegations. First, it does not appear that AAEO was involved in the University's response to allegedly discriminatory conduct by University students. While the University appears to have determined that it lacked jurisdiction over the conduct because it occurred in the context of organizations that were not affiliated with the University, it does not appear that the University considered that the members of these organizations were allegedly University students engaging in off-campus conduct, to which the Discrimination Policy applies, or that it consulted with its IT department or University police to attempt to identify these students.

It does not appear that the University determined whether the cumulative effects of these incidents created a hostile environment based on students' shared ancestry (Jewish)<sup>14</sup> or took action regarding the cumulative effects of the incidents until after the commencement of OCR's investigation of this matter.

OCR is also concerned that the President's initial letter to the UVM community in response to OCR's investigation may have perpetuated a hostile environment. As previously noted, the President "vigorously denied" what he characterized as "false allegation[s] of an insufficient response" to antisemitic incidents at the University shortly before OCR requested to interview the students who had complained about or were witnesses to the harassing incidents. OCR is concerned that the President's statements may have discouraged these students from speaking with OCR about their experiences. Likewise, OCR is concerned that the President's letter, including its explanatory statement that "No student reported to the university" any discrimination claims, may have discouraged both the students who in fact had reported to the

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<sup>14</sup> The University's policies and procedures do not specify whether, or how, AAEO will assess whether the cumulative effects of a series of incidents not reported in a single complaint may have resulted in a hostile environment at the University.

Provost their concerns as well as University employees from further raising concerns either to OCR or to the University.

### **Conclusion**

Prior to the conclusion of OCR's investigation and pursuant to Section 302 of OCR's *Case Processing Manual*, the University expressed an interest in resolving this complaint and OCR determined that a voluntary resolution is appropriate. Subsequent discussions between OCR and the University resulted in the University signing the enclosed Agreement which, when fully implemented, will address the evidence obtained and all of the allegations investigated. The Agreement provides that the University will:

- Review and revise its policies and procedures to ensure that the University's response to notice of discrimination including national origin harassment on the basis of shared ancestry is consistent with Title VI;
- Develop protocols clarifying the roles and responsibilities of AAEO and the Bias Response Team<sup>15</sup> and monitor implementation of the protocols by the Provost;
- Provide training to University staff responsible for investigation of Title VI complaints;
- Provide training to University senior leadership, all other staff, and students on the Title VI prohibition against harassment based on national origin, including shared ancestry, in the University's programs and activities;
- Issue a statement of commitment to address discrimination based on shared ancestry, including antisemitism, within 30 days of the signing of the Agreement and again with its annual antidiscrimination statement;
- Review the University's 2022 Climate Survey results to determine if other actions, beyond those memorialized in the Agreement, are needed to improve the campus climate; and
- Annually submit to OCR during the monitoring of the Agreement copies of case files of complaints of antisemitism filed during the preceding academic year.

This concludes OCR's investigation of the complaint. This letter should not be interpreted to address the University's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. The complainant may have a right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the University must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint with OCR.

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<sup>15</sup> The University informed OCR that the Bias Response Team will henceforth be called the Bias Education and Resource Team.

Page 16 – OCR Complaint No. 01-22-2002

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to protect personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

Sincerely,

/s/

Mia Karvonides  
Senior Legal Advisor to the  
Assistant Secretary and Deputy Assistant Secretary

Enclosure

cc: General Counsel Trenten Klingerman (*by email*: Trenten.Klingerman@uvm.edu)  
Associate General Counsel Meghan Siket (*by email*: Meghan.Siket@uvm.edu)

# **EXHIBIT B**



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

REGION IX  
CALIFORNIA

50 UNITED NATIONS PLAZA  
MAIL BOX 1200, ROOM 1545  
SAN FRANCISCO, CA 94102

December 13, 2022

Gabriel Groisman, Esq  
LSN Law P.A.  
3800 NE 1st Ave, Suite 200  
Miami, Florida 33137

Arsen Ostrovsky, Attorney and CEO  
International Legal Forum (ILF)  
Ibn Gabirol St. 30  
Tel Aviv, Israel

By email only to: [GGroisman@lsn.law.com](mailto:GGroisman@lsn.law.com) and [arsen@ilfngo.org](mailto:arsen@ilfngo.org)

Re: University of California, Berkeley  
OCR Case No. 09-23-2079

Dear Mr. Groisman and Mr. Ostrovsky:

On November 18, 2022, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received your complaint against the University of California, Berkeley Law School (University). Your complaint alleges that the University discriminated against Jewish students, faculty, and staff on the basis of national origin (shared Jewish ancestry). OCR is opening the following issue for investigation:

Whether the University failed to respond appropriately in the fall 2022 semester to notice from Jewish law students, faculty, and staff that they experienced a hostile environment at the law school based on their shared Jewish ancestry when University-recognized student organizations passed a bylaw against inviting speakers who support "Zionism, the state of Israel, and the occupation of Palestine."

OCR is responsible for enforcing Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. §§ 2000d-2000d-7, and its implementing regulation, 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, and national origin under any program or activity receiving federal financial assistance. As a recipient of federal financial assistance from the Department, the University is subject to Title VI.

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

Page 2 – (09-23-2079)

Please note that opening the issue for investigation in no way implies that OCR has made a determination with regard to its merits. During the investigation, OCR is a neutral fact-finder, collecting and analyzing relevant evidence from the complainant, the recipient, and other sources, as appropriate. OCR will ensure that its investigation is legally sufficient and is dispositive of the issue, in accordance with the provisions of Article III of OCR's *Case Processing Manual* (CPM).<sup>1</sup> A copy of OCR's Case Processing Procedures is available at <https://www2.ed.gov/about/offices/list/ocr/docs/complaints-how.pdf>.

OCR is committed to resolving complaints as promptly as possible. OCR will contact you or your designated representative soon to discuss the allegation and the complaint resolution process. OCR may close this complaint prior to making formal findings of compliance or non-compliance, provided that the circumstances or information gathered establishes an administrative or other basis for resolution in accordance with the CPM. OCR also would like to make you aware that individuals who file complaints with OCR may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the University must not harass, coerce, intimidate, discriminate, or otherwise retaliate against any individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a separate retaliation complaint with OCR.

Under the Freedom of Information Act (FOIA), it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, OCR will seek to protect, to the extent provided by law, personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released.

If you have any questions about this letter, please contact Anamaria Loya, Chief Attorney, at 415-486-5404 or [Anamaria.Loya@ed.gov](mailto:Anamaria.Loya@ed.gov).

Sincerely,



Zachary Pelchat  
Regional Director

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<sup>1</sup> *Case Processing Manual* (Jul. 18, 2022), <https://www2.ed.gov/about/offices/list/ocr/docs/ocrspm.pdf>.

# **EXHIBIT C**

## KAREN A. FISS

### EDUCATION

**Yale University**, New Haven, Connecticut. Department of the History of Art  
Ph.D. with Distinction, December 1995.  
Frances Blanshard Prize for Outstanding Dissertation, May 1996.

**Brown University**, Providence, Rhode Island  
Magna Cum Laude, B.A. with Honors in Art History; B.A. Studio Art, 1985.  
Knoedler Award in Art History, 1985

### PROFESSIONAL EXPERIENCE

**California College of the Arts**, Professor, 2013–present;  
Associate/Asst Professor 2000–2012.

**San Francisco Art Institute**, Visiting Professor in Interdisciplinary Studies, 1999–2000.

**San Francisco Museum of Modern Art**, Interactive Educational Technologies, *Making Sense of Modern Art* multimedia project, Editor and Director of Research, 1999–2000.

**Washington University**, St. Louis. Assistant Professor of Twentieth-Century Art, Tenure-track.  
Department of Art History and Archaeology, M.A. and Ph.D. programs, 1995–1999.

**The New Museum of Contemporary Art, New York City**. Curatorial and Publications  
Coordinator, 1986–1988; freelance 1989.

**The Institute of Contemporary Arts**, London. Curatorial Assistant, 1985–1986.

### BOOKS

*World's Fairs on the Eve of War: Science, Technology, and Modernity, 1937-1942*. University  
of Pittsburg Press, 2015. Co-authored with Robert Kargon, Morris Low, Art Molella.

*Grand Illusion: The Third Reich, the Paris Exposition, and the Cultural Seduction of France*.  
University of Chicago Press, 2010.

*Discourses: Conversations in Postmodern Art and Culture*, Co-editor. Cambridge: MIT Press,  
1990.

Manuscript in preparation: *Creative Resilience*

### ARTICLES/ CURATORIAL PROJECTS/ CATALOGUE ESSAYS

„Tomka Weiß: Blitze Frösche Chaos,“ in *Von Fröschen, Einhörnern und Schmetterlingen. Trans\*\_queere Wirklichkeiten und visuelle Politiken. Schriften von Josch Hoenes* (1972-2019). Eds: Robin Bauer, Adrian de Silva, Utan Schirmer. Melusina Press/University of Luxembourg, 2022.

“Trial and Error: TRANSforming Health and Justice,” a principal essay in the book titled *Friktionen (Frictions)* published by the Schwules (LGTBQ) Museum, Berlin. Edited by Birgit Bosold, Sylvia Sadzinski, Justus Heizelmann and Tomka Weiß. Forthcoming.

“Bunker Sex: Nazi frisson and the branding of Berlin.” Manuscript in preparation (based on lectures presented at Columbia University and in Frankfurt. German text can be found here: <https://initiative-neunter-november.de/ueber-missbrauchte-nazi-bunker/> ).

"Sung Tieu, Subnational Enterprise," in *Objects Before and After The Wall*. Publication and collateral events by Tlaxcala 3 Mexico City, The Institute for Endotic Research, Berlin, and the Berlin Art Prize, with sponsorship by the Fundación Jumex Arte Contemporáneo for Theoretical and Curatorial Research and the Berlin Hauptstadtkulturfonds, 2020. <http://theinstituteforendoticresearch.org/wp/projects-current/objects-before-and-after-the-wall/>

“Decolonizing the Encounter: Intangible Culture and Challenges to Theory-Based Pedagogy.” Article co-authored with Meghana Bisineer and Dinesh TB. Supposed to appear in a special issue of *UNbound: A Journal of Discourse and Creative Practice* (if forthcoming or not unknown at this point).

“The Propeller Group: We Are Restless, We Will Not Rest (even in Death),” *Art Practical*, February 13, 2018. This article discusses the multimedia work of this Vietnamese collective in light of continued neocolonial exhibition practices in the mainstream ‘art world.’ The Propeller Group resists these practices by intentionally disrupting the space between what is defined as the Global North and the Global South, communism and capitalism, and fine art and popular culture.

*Projecting onto Andrea Fraser, or Why Not All Labor Is Created Equal*, Andrea Fraser is on Our Mind. The Wattis Institute, 2016. Text can be found here: <https://wattis.org/our-program/on-our-mind/andrea-fraser-is-on-our-mind-2015-2016/projecting-onto-andrea-fraser-or-a-owwhy-not-all-labor-is-created-equala-by-karen-fiss>

“*Genital Call and Genitals on Trial.*” *Screen Bodies*, vol 1 issue 2 (Fall 2016): 87 – 91. Article about “Genital Call” by Alex Giegold & Tomka Weiß in the exhibition *What is queer today is not queer tomorrow*, Neue Gesellschaft für bildende Kunst e.V. (nGbK/ contemporary art space) Berlin. This article concerns transgender performance artists in Berlin, particularly their activism against the legal prosecution of young transgender individuals for gender “fraud.” I relate this performance work to current legal scholarship addressing the violation of human rights in these court cases, which are skewed by political morality, intolerance, and discrimination.

“Necessary Force: Art in the Police State.” Co-curator with Kym Pinder, Exhibition at the **Art Museum of the University of New Mexico**. September 10 – December 11, 2015. This exhibition included over 50 artists and addresses topics including police brutality, the murder of people of color, structural racism in the criminal justice system, the privatization of the prison system, endemic gun violence, the militarization of US police forces, and NSA surveillance of minority populations. The exhibit interrogates the role of photography in shaping public opinion and history—how we come to know and remember it – especially in the long shadow of the civil rights movement. Documentary photographs from the 1960s and 70s stand alongside work by contemporary artists to highlight the dialogue these artists have with this powerful visual legacy. Participating artists included Max King Cap, Josh Begley, Mel Chin, Nani Chacon, Nick Cave, Melvin Edwards, Harun Farocki, Aaron Gach, Harry Gamboa/ASCO, Thomas Greyeyes, Nicholas

Herrera, Danny Lyon, Otabenga Jones & Associates, Jeremy Mende, Trevor Paglen, David Reinfurt, Dread Scott, Hito Steyerl, LaShawnda Crowe Storm, and Hank Willis Thomas.

“Relevance of Film Classics,” In *L'Atalante. Revista de estudios cinematográficos* (a biannual, non-profit journal of film studies supported by Spanish universities). April 2014.

“Cinema in the 1930s: Exile as Experience and Metaphor,” in *Encounters with the 1930s*, ed. Jordana Mendelson. Catalogue for the Museo Nacional Reina Sofia, Madrid, 2012.

Member of Curatorial Team for *Encounters with the 1930s* - an international exhibition to mark the 75<sup>th</sup> anniversary of Picasso's *Guernica* and the Spanish Civil War. **Museo Nacional Reina Sofia, Madrid**, 2011-2012. Exhibition dates 2 October 2012–7 January 2013.

*El cine de 1930. Flores azules en un paisaje catastrófico (The cinema of 1930s. Blue Flowers in a Catastrophic Landscape)*. Curator for extensive 10-session exhibition of archival films for the **Museo Nacional Reina Sofia, Madrid**, Sabatini Theater, 4 October – 30 October, 2012. Program sessions include: “Politics, Publicity, and Experimental Cinema; The World of Tomorrow-Capitalism and Futurist Fantasies at the American Fairs; Transfixed by Technology: Labor, Invention, and the New Man; Representing Spain-Documentaries from the 1937 Pavilion; The Spanish Civil War Through the Eyes of Others; Realist Poetics and Poetic Realism; Soviet Socialist Realism for the Spanish Republic; Narratives of Colonialism in Documentary and Fiction; Pre-Independence Cinema and the Independence of Women-The Indian Studio System of the 1930s; The Cult of Distraction.”

“Nation Branding and the US Presidential Election,” essay commissioned by the San Francisco Museum of Modern Art on the occasion of the exhibition, *Six Lines of Flight: Shifting Geographies in Contemporary Art*, for *Open Space, (SFMOMA)*, 2012.

“Hybridity, Hegemony, and Design in a Globalized Economy,” *Design and Ethics*, Emma Felton, Oksana Zelenko and Suzi Vaughn, eds. (London: **Routledge/Taylor & Francis**, 2012), 45-56.

“One-on-One: Ana Mendieta's *Siluetas*.” *Open Space, SFMOMA*, January 2012.

“California's Crisis as a Design Problem,” *arcCA: the Journal of the American Institute of Architects*, “The Future of CA,” California Council, August 2010: 8-11.

Guest Editor with Hazel Clark, “Design in a Global Context,” *Design Issues (MIT Press)*, 25:3 Summer 2009.

“Design in a Global Context: Envisioning Postcolonial and Transnational Possibilities,” *Design Issues*, 25:3 (Summer 2009): 3-10.

“Design Indaba 2008,” *Metropolis Magazine*, online, May 2008.

“Design at a Global Level,” *Metropolis Magazine*, online, November 2006.

“Eating the Other,” (discourses of hybridity and localization in design), *PRINT: America's Graphic Design Magazine*, LX:I 2006: 56–61.

"Design for the Other 90 Percent," *CMYK Magazine* 35 (Winter 2006).

"Radical Craft," *CMYK Magazine* 34 (Summer/Fall 2006): 70–74.

Michael Vanderbyl, Leslie Becker, Jennifer Morla, Karen Fiss, Bob Aufuldish, and Mark Fox, “Graphic Design Thesis: A Survivor's Guide,” in *Teaching Graphic Design*, ed. Steven Heller (New York: **Allworth Press**, 2003), 124–34.

“The Emperor’s New Graphics: President Bush’s design set pieces reveal the message behind the man (A Cold Eye),” *PRINT: America’s Graphic Design Magazine*, LVI:IV 2002: 30+.

"In Hitler's Salon: The German Pavilion at the 1937 Exposition Internationale," in *Art, Culture and Media under the Third Reich*, ed. Richard Etlin (Chicago: **University of Chicago Press**, 2002), 316–42.

"'Mystiques et Espaces': The Nuremberg rallies and the rejuvenation of the French fête nationale," in *Arte y espacio (XIX Coloquio Internacional de Historia del Arte)*, ed. Oscar Olea (Mexico City: **Universidad Nacional Autónoma de México**, 1997), 53–68.

"The German Pavilion at the 1937 Paris Exposition internationale." In *Art and Power: Europe under the Dictators, 1930–45*, eds. Dawn Ades et al. (**London: Hayward Gallery**, 1995), 108–110.

“Denis Gillingwater: Peering Beyond the Mask,” Essay for On View series, **The New Museum of Contemporary Art**, New York, 1987

## CONFERENCES/ INVITED LECTURES

“Josch Hoenes and Tomka Weiß,” lecture/interview for exhibit and book release, **Aquarium/Südblock Kreuzberg-Berlin**, March 2024.

“Grand Illusion: Visual Culture at World’s Fairs,” **Visual Studies Research Institute, USC**, Los Angeles, February 10, 2021.

“Propaganda: South African Citizenship Campaigns,” International and Area Studies **ORIAS Institute, University of California**, Berkeley, June 22, 2020.

“Objects Before the Wall,” Sung Tieu with text contribution by Karen Fiss, **TIER**, Berlin. 10 September 2019.

“Decolonizing the Encounter: Intangible Culture and Challenges to Theory-Based Pedagogy.” Conference paper presented in collaboration with Prof. Meghana Bisineer and Dinesh TB, Janastu, Bangalore. In *Theory/In Practice: International conference on Research in Art, Design and Culture*, **Srishti School of Art and Design**. Bangalore, December 21-22, 2018.

Guest lecture, “The Afterlife of Bunkers: Nazi frisson, creative capital, and the branding of Berlin.” **Society of Fellows, Columbia University Humanities Center**, April 5, 2018.

Guest critic for “Bodies of Assembly,” **University of California, Berkeley**. School of Environmental Design. March 7, 2018.

“Embrace Your Freedoms/ Know Your Rights,” speaker along with Hank Willis Thomas, organizer of **For Freedoms: 50 State Initiative**.” CCA Town Hall, October 25, 2018  
 „Faszinierender Fetischismus: Ausstellungen zeitgenössischer Kunst in Nazibauten im Dienste der Markenbildung von Nationen,“ **Initiative 9.November and the Sigmund-Freud-Institut**, Frankfurt 6 July 2017.

“Shifting Ground: five women filmmakers.” Screening co-organized with Meghana Bisineer and the **Wapping Project**, London; Chair for panel discussion, March 2017.

“Ana Mendieta: a compromised legacy.” Guest lecture in conjunction with the exhibit “Covered in Time and History: The Films of Ana Mendieta,” **Berkeley Art Museum**, January 2017.

Guest Reviewer, Graduate Architecture Program, **University of Virginia**, Charlottesville, December 11-12, 2016.

Lecture/Panelist: “Is Art Our Last Safe Space? A Zócalo Public Square and MOCA Event,” **Museum of Contemporary Art, Los Angeles** and **Zócalo/ Smithsonian** sponsored event to coincide with installations of work by Thomas Hirschhorn and Sterling Ruby at MoCA. October 27, 2016

Guest speaker, **Institute of Integral Studies, San Francisco** with Amy Balkin in conjunction with the exhibition of “A People’s Archive of Sinking and Melting” February 5, 2016.

“The IMC and South African Identity after Apartheid,” Guest Lecture, **Center for African Studies, University of California Berkeley**, November 2015.

Speaker, “Intangible Culture: African/Asian Axis,” panel organized by Françoise Verges for the first international conference “Asian Studies in Africa: The Challenges and Prospects of a New Axis of Intellectual Interactions.” **Association of Asian Studies in Africa, University of Ghana, Accra (IIAS)**, September 2015.

Chair for the panel, “Images, Imaginations, Embodiment, and Contemporary Art,” first international conference “Asian Studies in Africa: The Challenges and Prospects of a New Axis of Intellectual Interactions.” **Association of Asian Studies in Africa, University of Ghana, Accra (IIAS)**. September 2015.

Eric Baudelaire, Letters to Max,” **Berkeley Art Museum and Kadist, San Francisco**, February 2015. As part of the artwork and the main event for the opening of the exhibition, I interviewed the former Foreign Minister of Abkhazia, and then participated in conversation with artist/filmmaker Eric Baudelaire, and curators Apsara DiQuinzio and Joseph Del Pesco. <https://vimeo.com/121178834>

“Brand the Beloved Country,” **San Art, Ho Chi Minh, Vietnam**. January 2015.

“Postcolonial Theories of Opacity,” Lecture/workshop **San Art, Vietnam**, January 2015.

“South Africa 20 Years After Apartheid” Guest lecture in seminar Africa is a Country, Dominick Willson. CCA, April 2014.

Guest lecture for “Urban Futures: Imaging/Imagining the Afro-future City,” **GSAPP, Columbia University**, MArch Studio, Columbia University, October 2014.

“Imaginary of the Present: Current Images of African Worlds.” Lecture in conjunction with the exhibition and research project *Giving Contours to Shadows*, **Neue Berliner Kunstverein (n.b.k.) and Savvy Contemporary, Berlin**. June 2014.

“The Propeller Group: Contemporary art and censorship in Vietnam,” invited lecture, **University of New Mexico, Albuquerque**. Lecture and panel in conjunction with *Defiant Requiem*.

“Alles was wir wollen.” Speaker/Moderator for symposium with German film director Beatrice Möller, photographer Thomas Heinser, and filmmaker Sergio De la Torre. **Goethe Institut, San Francisco**, March 2014.

“Audre Lorde: The Berlin Years 1984-1992,” Organizer and moderator for film screening and panel discussion with film director Dagmar Schultz, playwright Jewelle Gomez, filmmaker

Pratibha Parmar, designer JB, and Dr. Marion Gerlind. Event in honor of what would have been Lorde's 80<sup>th</sup> birthday. Co-sponsored by **CCA Dept. of Academic Affairs and Department of Gender and Women's Studies, UC Berkeley**, February 2014.

"National Socialism on Display: Technology, Design, and the Four-Year Plan at *Schaffendes Volk*." Paper presented at a session organized by Robert Kargon; chaired by Ana Cardoso De Matos, Universidade de Évora, Portugal, "Modernity on Display: Science and Ideology at International Expositions ca. World War II." **ICOHTEC (International Conference for the History of Technology), Barcelona**, July 2012.

"Haus der Deutschen Kunst and the 1937 German Pavilion (architectural cyborgs in service of a Nazi mediascape)." Paper presented on the occasion of the 75<sup>th</sup> year of the **Haus der Kunst, Munich**, as part of the symposium "Histories in Conflict." Munich, June 2012.

"The Challenge of Nazi Art," Discussant for the College Art Association panel chaired by Christian Fuhrmeister, Zentralinstitut für Kunstgeschichte, Munich, and James Van Dyke, University of Missouri, Columbia; **CAA, Los Angeles**, February 2012.

"From Nation Building to Nation Branding," **Reina Sofia Museum, Madrid**, March 2011; paper presented as part of the symposium panel "The 1930s: The Subject in/of History," International conference in conjunction with the planning of the exhibition "Encounters with the 1930s."

Chair with Mabel O. Wilson, GSAPP, Columbia University. "Nation Building: The Politics of Space in the African City," **CAA Annual Conference, New York City**, February 2011.

"Parametri-Cities: Jo-burg," lecture and critique for **GSAPP Architecture, Columbia University, NYC**, Advanced Studio Global Topologies, with Mario Gooden and Mokena Makeka, Makeka Design Laboratory. New York City, February 2011.

"Mbeki's Pan-Africanism: Tradition, Heritage, and National Identity at Pretoria's Freedom Park." Paper presented as part of the panel, "Tradition as Strategy: Art, Architecture, and Material Culture in Modern Africa," *African Diaspora and Diasporas in Africa*, Annual Meeting of the **African Studies Association, San Francisco**, November 2010.

"Beyond Product: The Problem of HCD Design Ethnography and Postcolonial Anthropological Frameworks," *The State of Design Research*, symposium at the California College of the Arts, San Francisco, December 2010.

"Media, Visuality, and the Unmaking of Democratic Politics," with Mabel O. Wilson (as respondent) for Visual Criticism Faculty Forum, November 2006.

"Design and Deconstruction: An Incomplete Project," **AIGA Spaced Out** Symposium on Typography, San Francisco, October 2003.

"Design in a Global Context," session chair, **College Art Association, New York City**, 2003.

"Research as Design/ Design as Research: an interdisciplinary perspective," conference chair and organizer, **CCA, San Francisco**, 2003.

"Design in an Expanded Field: History, Theory Practice," Design Program, **CCA, San Francisco**, 2001.

"Vanishing Artspace: A panel discussion on the struggle for local art spaces," chair/moderator, **CCA, San Francisco**, 2000.

"Post-Mexican: Art and Politics in the 90s," co-presentation with Yoshua Okón, video artist and founder of La Panadería, Mexico City. In conjunction with *A Mexican Presence*, **Yerba Buena Center for the Arts, San Francisco**, September 1998.

"Ancestral Imperatives and the Ordering of Desire: Mexican and Chicana Women Photographers," symposium in conjunction with the exhibit, *Defining Eye: Women Photographers of the Twentieth Century*, **St. Louis Art Museum**, October 1997.

"False Refuge: Exiled Women Artists in France," symposium in conjunction with the exhibit, *Exiles and Emigrés: The Flight of European Artists from Hitler*, **Los Angeles County Museum of Art**, April 1997.

"Totalitarian Cultures and their Audiences," session co-chair, **College Art Association, New York**, 1997.

"Dialogues: Art and Science," symposium for the exhibition, *Art & Science: Investigating Matter. Photographs by Catherine Wagner*, **Washington University Art Gallery**, September 1996.

"The 1937 German Pavilion: Constructing a National-Socialist Identity," **College Art Association, Boston**, February 1996.

"The Design and Management of the Environment Under Authoritarian Regimes: 1920–1950," seminar sponsored by the Center for Advanced Study in the Visual Arts, **National Gallery of Art, Washington, D.C.**, December 1995.

"The Visual Pleasure of Mass Ornament: French Perceptions of National-Socialist Cultural Production," **College Art Association, New York City**, February 1994.

"Art Forgery/Art Authenticity. Simulacra in the Visual Arts," **Brown University, Providence**, April 1991.

## FELLOWSHIPS AND HONORS

**Peleh Foundation (NYC), 2022-23.** Writing Grant for "Creative Resilience." (26K)  
**San Art**, Ho Chi Minh. Lab residency as part of Conscious Realities program, January 2015.  
**Deutscher Akademischer Austausch Dienst (DAAD)**, Faculty Research Visit Grant (Zentralinstitut für Kunstgeschichte, München), June-July 2012  
**Graham Foundation for Advanced Studies in the Fine Arts**, Individual Grant, 2008  
**Design History Society**, research grant, 2008  
**CCA Faculty Development Grant**, 2007  
**Getty Postdoctoral Fellowship**, 1998–1999  
 James Bryant Conant Fellowship, Minda de Gunzburg **Center for European Studies, Harvard University**, 1998–1999 (declined)  
**National Endowment for the Humanities**, Summer Research Grant, 1998  
**National Endowment for the Humanities**, Dissertation Grant, 1994–1995  
 Mary Davis Fellowship, Center for Advanced Study in the Visual Arts, **National Gallery of Art**, 1992–1994  
**Bourse Chateaubriand**, French Ministry of Foreign Affairs, Paris, 1991–1992  
**Fulbright Scholarship**, France 1991 (declined)  
**Deutscher Akademischer Austausch Dienst (DAAD)**, Research Grant, Summer 1992  
**Deutscher Akademischer Austausch Dienst (DAAD)**, Summer Language Study Grant, Goethe Institut, Freiburg, 1990  
**Yale University Graduate School Fellowship**, September 1988–1992

## RELATED PROFESSIONAL SERVICE

Review of Faculty Dossier for Promotion to Full Professor, New School/Parsons School of Art, New York. 2020.

Immigrant Artist Mentor, New York Foundation for the Arts, 2019-20.. Invited by NYFA to support immigrant artists communities in the Bay Area. A competitive program to provide resources through entrepreneurial training, access to other artists, arts professionals, and organizations. The program offers immigrant artists the opportunity to focus on their creative practice and gain support and exposure for their work while upholding their distinct cultural identities.

Advisory Board, New Directions in Contemporary Art Series, Lund Humphries Publishing, London (developing competitor to Whitechapel Documents in Contemporary Art). Series editor Marcus Verhagen (Southey's Institute of Art, London).

Founder, Women in Contemporary Art Network (WICAN). Professional organization listserv for women working in the field of contemporary art (approx. 200 members)

Program Reviewer, UC Berkeley Department of Art; at request of UC Provost's Office and UC Program Review Oversight Committee (PROC). Fall 2017.

Review of Faculty Dossier for Promotion to Full Professor, Parsons School of Art, New York.

Reviewer of Faculty Dossier for Promotion to Full Professor, San Francisco State University, 2017

Guest Critic, School of Architecture, University of Virginia, December 2016.

Chair, USA Artists Selection Panel, USA Fellows in Design and Architecture, 2010 (non-profit organization which awards \$50,000 fellowships to approximately 4-5 recipients).

"CCA Downtown": In collaboration with Very Public Arts and CCA Faculty in Fashion and Furniture, produced a series of changing, interdisciplinary "pop-up" exhibits of student work from CCA's design programs. Exhibits supported by New Montgomery Partners and the San Francisco Art Dealers Association.

Grant Reviewer, Social Sciences and Humanities Research Council (Canada) 2010

Peer Reviewer, Berlin Prize, The American Academy in Berlin 2009-2010

Panelist, USA Artists, USA Fellows in Design and Architecture, 2009

Grant reviewer, National Endowment for the Humanities, Washington DC (various grant cycles from 2000-2006)

Grant reviewer, Getty Grant program, Los Angeles (various grant cycles)

Manuscript reviewer, University of California Press

Manuscript reviewer, Yale University Press

Manuscript reviewer, University of Chicago Press

Manuscript reviewer, MIT Press

Manuscript reviewer, *French Historical Studies*

Manuscript reviewer, *Design and Culture*

Board of Advisors, Very Public Arts, Oakland/San Francisco (until nonprofit closed in 2010)

Board of Advisors, Project M, Belfast, Maine (design institute)

Guest Reviewer, University of California, Berkeley, School of Environmental Design, Graduate Thesis Projects in Architecture, 2003 and 2004.

## CCA SERVICE

VCS Thesis Advisor. Non-program faculty member serving as Thesis Advisor for Katyoun Bahrami, "*The Unveiled Gaze*." Responsibilities included advising meetings, thesis guidance, draft readings and revisions, participation in two program reviews, and mentorship for symposium presentation and reviewing submitted article for the program journal, *Sightlines*.

Judge, HAVC Award for African and African Diasporic Visual Culture, CCA, May 2024.

HAVC Junior Review, September 2023.

HAVC Junior Review, April 2023  
 HAVC Program Assessor for Diversity and Cultural Literacy, May 2021.  
 Committee Member, IRC promotion review to Full Professor, Scott Minneman (Design), February 2022  
 Committee Member, IRC promotion review to Tenure, Nilgun Bayraktar (H&S), February 2022  
 DEIB Curriculum Review, Art History and Visual Studies Program. Member of two-person faculty team to review HAVC syllabi and evaluate them according to DEIB content and program objectives, Spring 2021.  
 VCS Thesis Advisor. Non-program faculty member serving as Thesis Advisor for Katherine Jemima Hamilton's thesis, *Sonic Imaginaries: Sound and Resonance in Walas Gwa'yam Beau Dick's Masks and Candice Hopkins' Curation at documenta 14* Fall 2021 and Spring 2022. Responsibilities included advising meetings, thesis guidance, draft readings and revisions, participation in two program reviews, and mentorship for symposium presentation and reviewing submitted article for the program journal, *Sightlines*.  
 Organized with Maria Porges MFA Second Year MFA Fall Reviews with faculty advisors, MFA exhibition curators etc.  
 Candidacy Review, committee member, Graduate Fine Arts, Spring 2022.  
 Thesis Advisor, Undergraduate Thesis, Art History and Visual Studies Program. Faculty advisor for Dani Hielscher, *Substance for the Soul: Meaningful Experiences in Historic House Museums*, Fall 2020 and Spring 2021. Responsibilities included reading and editing drafts, research support, assisting preparation and attending thesis symposium, and attending all student program reviews.  
 Committee Member, IRC, Promotion review to Tenure, Mia Liu, (H&S) March 2020.  
 Graduate Fine Arts Graduate Admissions Committee, Spring 2020  
 Independent Graduate Studio Practice units (as service, without pay) Spring 2020  
 First Year Review Panelist, April 2019  
 Graduate Fine Arts Admissions Committee, Spring 2019.  
 Graduate Fine Arts, Thesis Reading mentor and co-organizer, Prelinger Library, April 2019  
 Committee Member, IRC Promotion Pre-Tenure review, Mia Liu (H&S) March 2019.  
 Committee Member, IRC Promotion to Tenure review, Tom Barbash (H&S) February 2019.  
 Thesis advisor for student majors, Visual Studies, 2018-19.  
 Advisor for dual-degree MFA students, Visual and Critical Studies, 2017-18  
 Committee member, IRC, Promotion to Full Professor review, Tirza Latimer (H&S) Spring 2018  
 Committee member, IRC, Promotin Pre-Tenure review, Nilgun Bayraktar (H&S) Spring 2018  
 Committee member, IRC Promotion to Tenure review, Neeraj Bhatia (Architecture) Spring 2018  
 VCS Symposium Moderator /Respondent, April 2017  
 Curatorial Practice, Outside Advisor and reader for several CURP MA theses, 2017.  
*Shifting Ground*, Screening of Films by Women, funded by Wapping Project, London. March 2017. Co-curator with Meghana Bisineer.  
 VCS Internal Advisor for dual-degree MFA student, Visual and Critical Studies, 2016-7.  
 Graphic Design Level 3 Reviews, Spring 2015  
 Junior Review, 2015  
 Design History Conference, CCA. 2015. Conference committee member: reviewed submissions, introduced keynote speaker, chaired session.  
 Senior Faculty Mentor, Nilgun Bayraktar, 2017- present.  
 Senior Faculty Mentor, Patricia Lange, 2015-6  
 Senior Faculty Mentor for Maria del Mar Gonzalez, Visual Studies 2014-5  
 Faculty Mentor/Liaison for Laura Schwulzer, Graphic Design, 2014-5  
 Promotion to Full Professor, Review Committee, Mark Fox, 2014  
 Graphic Design Thesis Committee, Fall and Spring semesters, 2002-2014.  
 Organizer, Andre Lorde symposium and film screening (on the occasion of what would have been her 80<sup>th</sup> birthday); with film director Dagmar Schultz, playwright Jewelle Gomez, filmmaker Pratibha Parmar, designer JB, and Dr. Marion Gerlind. Co-sponsored by CCA Dept. of Academic Affairs and Department of Gender and Women's Studies, UC Berkeley, 2014  
 Pre-Tenure Committee, Christine Metzger, Critical Studies, 2013.  
 APT Committee, 2012-13

Search Committee for two Tenure-Track Architecture Positions: History and Theory and Build/Tech, 2011-12

Search Committee for Tenure-Track Architecture Position in Build/Tech, 2010-11

Faculty Development Grant Committee, 2011

Tenure Review, David Gissen, 2010

Tenure Review, Jon Sueda, 2010

Graduate Design: co-designed Presearch curriculum in conjunction with thesis curriculum arc, 2009-10

Curator of exhibition of Graduate Design student work created in my course “Contemporary Issues/ California’s Constitutional Crisis,” co-taught with Peggy Weil, at the launch of Next Ten’s California Choices.org at the Commonwealth Club of San Francisco. California Choices.org is dedicated to translating the state’s current legislative and budgetary crisis into comprehensible terms. Speakers included: David Kennedy, History Professor Emeritus, Stanford University; Mark DiCamillo, Director, California Field Poll; Noel Perry, Venture Capitalist and Founder, Next 10; Kathay Feng, California Common Cause; Annette Fuentes, New America Media; Lenny Mendonca, Bay Area Council; Sunne Wright McPeak, California Forward.

*Just Design*, attempted to establish a college-wide initiative called *Just Design* to support collaborations between non-profits and designers across disciplines on projects devoted to social change, education reform, and environmental justice. Collaboration initially established with Public Architecture and Paul Pollack, 2009.

*CCA@Downtown*. Produced a series of changing pop-up exhibits in collaboration with the Fashion and Furniture programs and Very Public Arts. The exhibits consisted of student work from conceptual fashion and furniture studio courses as well as paintings by MFA students, and took place in an empty retail space in downtown San Francisco, next to the Palace Hotel (donated by New Montgomery Partners.) The exhibit was supported by a generous donation from the San Francisco Art Dealers Association, 2009.

Pre-Tenure Review, Federico Windhausen, Visual Studies.

Research Librarian Search Committee 2006

Faculty Development Grants, Selection Committee 2006

Tenure-track Faculty Search Committee, Visual Studies 2005-6

“California Initiative” – attended planning meetings at the request of Michael Roth with Sonja Manjon and Noel Perry; wrote the curriculum proposal presented to Noel Perry to secure funding for this college-wide initiative. 2005-6

Visual and Critical Studies: Authored formal guidelines for researching and writing MA thesis in collaboration with program chair Mabel Wilson.

Pre-Tenure Review, Tina Takemoto, Visual Studies, 2005.

Chair/Tenure-track Faculty of Social Practices, Search Committee, 2004

Faculty Development Grants, Selection Committee, 2004

Committee to Review Faculty Development Grant Process, 2004. Authored document outlining suggested revisions to the grant process which emerged out of the work of the committee: these included formalizing and revising the list of required application materials; the establishment of different grant categories and travel fellowships that would be made available at different times during the academic year.

Student Marshall, CCA Graduation. 2004.

Curriculum Committee, 2002-4

Symposium organizer, “Design as Research/ Research as Design” – organized for students and faculty of the Graphic Design Program with visiting speakers and panel discussions, 2003.

Director of Libraries, Search Committee, 2002-3

Tenure-track Faculty Search, Graphic Design, 2002-3

Chair of Architecture Program, Search Committee, 2002-3

Tenure-track Faculty Search, Graphic Design, 2002-3

Faculty Planning Committee to Create BA in Visual Studies, 2002-3

Graduate Design/ Faculty Committee to create Thesis Curriculum, 2002-3

Library Committee/Library Acquisitions, 2001-2

Junior Review, 2001

## **COMMUNITY AND VOLUNTEER ACTIVITY**

Bi-weekly Volunteer English Tutor. In-person tutoring sessions for refugee/immigrant high school students (primarily from Yemen and Central America). Tutoring was on zoom during COVID remote learning), Oakland International High School, 2020-present.

Co-Founder, Working Group on Contemporary Anti-Semitism, Temple Sinai, Oakland, Spring 2022-ongoing).

Sunrise Movement, Art Team Leader, Bay area chapter, 2017-2021.

Equity Planning Team, OUSD (advocacy group addressing issues of equitable access to educational opportunities and resources in the Oakland school district)

Oakland Technical High School, College Mentoring Committee

Oakland Unified School District, Long-Range Planning/Architecture Committee, Oakland, CA

Co-Chair, CPR Political Action Committee in Public Education, Oakland, CA

Speaker and organizer, Californians for Democracy (November 2010 ballot initiative)

Community Health for Asian Americans (CHAA), volunteer to build new garden sites in Oakland primarily for use by Cambodian, Mien, and Laotian refugees.

Volunteer Organizer, Just Cause ballot initiative against unlawful evictions in Oakland.

# **EXHIBIT D**



Ren Fiss <kfiss@cca.edu>

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**Re: CCA: Jewish and Israeli students**

1 message

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**Tricia Brand** <tricia.brand@cca.edu>

Tue, Oct 10, 2023 at 11:39 AM

To: Ren Fiss <kfiss@cca.edu>

Dear Ren,

I appreciate your outreach and your trust that I would bring your message forward to broader college leadership--and a small team is developing a college-wide message. I have heard from others in our community, and I am doing my best to respond as both a human, a community member, and a voice within the college.

We are feeling a lot of heaviness and I am in grief with those fearing for the safety of loved ones, those who've already lost loved ones to terror, and everyone whose safety is always under threat because of their culture, their faith, and their hope for self-determination.

Sincerely,

Tricia

On Mon, Oct 9, 2023 at 3:26 PM Ren Fiss <kfiss@cca.edu> wrote:

Hi Tricia,

Members of the CCA Havurah, Jewish students and faculty, and in particular our Israeli students, are wondering when the CCA leadership will issue and distribute a statement to the CCA community expressing solidarity with Jewish students and those with ties to Israel, and condemning the murderous attacks by Hamas on innocent Israeli victims- many children and youth among them.

As we have discussed, CCA leadership failed to issue a statement of solidarity with Jewish students when the Pittsburgh Tree of Life murders took place, as well as multiple shooting attacks closer to home in California (Poway, Los Angeles, San Francisco). In contrast, it has issued statements of solidarity and support for tragic ethnic, religious and gender violence in Iran, New Zealand and elsewhere. As we previously discussed, I support those previous statements and also did my best as a faculty member to support those students suffering as a result of news of the violence in these countries.

I realize this responsibility is not solely in your purview- please feel free to share this message with Steve Beal and TRC.

Sincerely,

Ren Fiss

(from my CCA account)

# **EXHIBIT E**



## **Re: [All Faculty] Statement of support and resources**

From: **Presidents Office** <presidents-office@cca.edu>  
Date: Wed, Oct 11, 2023 at 1:39 AM  
Subject: [All Faculty] Statement of support and resources To: All Faculty <allfaculty@cca.edu>, All Staff <allstaff@cca.edu>, <allstudents@cca.edu>

Dear CCA Community,

We all feel a lot of heaviness and grief about the horrific and devastating events that unfolded over the weekend in Israel and Gaza. We are especially concerned for those who fear for the welfare and safety of loved ones, those who've already lost loved ones to terror, and everyone whose safety is under threat because of their culture, their faith, and their hope for peace. CCA is a diverse and increasingly interconnected learning community. Faculty may be struggling with how to address this moment in their classrooms and studios. Students may be experiencing anxiety in a violent and uncertain world. In times of political crisis and war, we may be seeking spaces to grieve, to understand, and to find comfort in community. We recognize that although our college is small, those who are affected may not always be visible. However, we share in the collective pain of this moment and want to ensure that the community is aware of resources that are always available to you, should you choose to reach out.

**Office of Student Belonging & Inclusion**  
**Office of the Vice President of Diversity, Equity, Inclusion, & Belonging**  
**Counseling and Psychological Services**  
**Claremont EAP**

**CCA Havurah** - faculty, staff, and students email [havurah18@cca.edu](mailto:havurah18@cca.edu) to join

The safety of our community is of utmost importance, and we encourage you to reach out to the Public Safety office should you feel any sort of concern or threat. They can be reached at 415-703-9512. If you or a friend need urgent assistance, please contact CCA's Mental Health Crisis Hotline at 415-551-9344.

As this current crisis continues to unfold, please be compassionate with one another and take care of yourselves.

Sincerely,  
Stephen Beal  
CCA President

# **EXHIBIT F**



# cca\_critical\_ethnic\_studies

San Francisco, California

...



👍 Liked by **thebeeman3** and **51 others**

**cca\_critical\_ethnic\_studies** Critical Ethnic Studies at California College of the Arts has a 50+ year history of educating our students in decolonial, post-colonial, anti-colonial, and transnational theory and praxis. We are guided by our responsibility, to tell the truth and bring the voices of the globally silenced to the center of art and design discourse. We take seriously, our duty to help students name and resist oppression, anywhere on the planet it may occur. We teach that coloniality of power requires complicity. Our program has a stellar record of teaching the historical and contemporary context of Israel's colonial legacy in Palestine. And now we watch, along with the world with horror and deep grief, the collective punishment, civilian killings, attacks on humanitarian support, forced displacement & internet shutdowns.

Critical Ethnic Studies at California College of the Arts affirms the right of Palestinians to advocate for their self-determination. We stand in solidarity with the Palestinian people, students, faculty, and those in our community who are in fear of speaking up. We support Palestinians' right to live freely and with dignity. We stand in solidarity with all of our community members who strive for a peaceful world and mourn for all of the lives lost.

You cannot use the term "decolonize" without recognizing the toxicity and violence of settler colonialism. Decolonization is not a metaphor. Solidarity is not passive.

We call on all art and design institutions of higher education to prioritize and intensify decolonial curriculum, pedagogies, and policies. Our students graduate and shape culture with their imagination. We have a responsibility to help them use their brilliance to build a world without colonization, genocide, and war. A world centered on human rights, animal rights, and plant rights. A healed Earth.

Collective resistance is the only path toward liberation.

A civilization that chooses to close its eyes to its most crucial problems is a stricken civilization. A civilization that uses its principles for trickery and deceit is a dying civilization. ---Aimé Césaire

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A civilization that chooses to close its eyes to its most crucial problems is a stricken civilization. A civilization that uses its principles for trickery and deceit is a dying civilization. ---Aimé Césaire

Our silence will not protect us. ---Audre Lorde  
[#freepalestine](#) 🇵🇸

6 days ago

# **EXHIBIT G**



On Thu, Nov 30, 2023 at 12:18 PM Maira Lazdins <[mlazdins@cca.edu](mailto:mlazdins@cca.edu)> wrote:

Hi Ren,

Below is the complaint that you submitted. You also attached screenshots of the post.

Thanks,  
Maira

Full name: Karen Fiss

Email address: [kfiss@cca.edu](mailto:kfiss@cca.edu)

Phone number: 5102068471

Date of the problem/complaint/issue: October 9(?) 2023

Have you already been in touch with HR in regards to this issue? If yes, please share the name of the HR contact: No. I was touch with Tricia Brand.

**Specific problem/complaint/issue:**

Critical Ethnic Studies posted on their official instagram an image of Palestinian Flags with a placard stating "Decolonization is Not a Dinner Party." I was not aware of it at first, but another (non-Jewish) colleague wrote to me of their shock at seeing it. The content of the Instagram text appears to be a thinly veiled justification for the rape, torture, beheading and brutal murders of Jews in Israel by Hamas. The message calls for "collective resistance" without condemning terrorist acts that are clearly in violation of international law. It stated "You cannot use the term "decolonize" without recognizing the toxicity and violence of settler colonialism. Decolonization is not a metaphor. Solidarity is not passive." This post was "liked" and therefore its message one assumes approved of by several of CCA's programs and the Wattis, in addition to the dean of humanities and sciences, the dean of fine arts, someone in a high position in the provost office, and other administrators and faculty. Not all my screenshots of those at CCA with administrative responsibilities who approved this post can be added to this form. I can deliver via email or otherwise.

**MAIRA LAZDINS** Vice President, Human Resources (she, her)  
[mlazdins@cca.edu](mailto:mlazdins@cca.edu) | m 240.688.1896

 **California College  
of the Arts**  
5212 Broadway | Oakland, CA | 94618

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# **EXHIBIT H**



On Wed, Nov 29, 2023 at 8:01 AM Maira Lazdins <[mlazdins@cca.edu](mailto:mlazdins@cca.edu)> wrote:

Dear Ren,

Thank you for reaching out and sharing your perspective. The College believes that free inquiry and expression are at the heart of every academic community. While firmly rejecting hate speech, antisemitism, and Islamophobia, we also recognize there may be a spectrum of views on any given topic—and that diverging opinions on substantive issues can coexist. We understand that not everyone will agree with this approach. Our focus continues to be on modeling productive and respectful disagreement within our diverse community, while preventing direct harm to individuals or groups of people by avoiding personal attacks. The shared policies likewise reflect this balance, acknowledging both the importance of individual views and the need to avoid causing harm to others. Our focus is on communicating with and working to ensure the health and safety of the diverse community on our campus—namely our students, staff, and faculty.

We appreciate you taking the time to share your perspective.

Thank you,  
Maira

**MAIRA LAZDINS** Vice President, Human Resources (she, her)  
[mlazdins@cca.edu](mailto:mlazdins@cca.edu) | m 240.688.1896



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# **EXHIBIT I**



Ren Fiss <kfiss@cca.edu>

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## Re: CCA policy reminder follow up

1 message

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Maira Lazdins <mlazdins@cca.edu>

Thu, Dec 21, 2023 at 6:05 PM

To: Ren Fiss <kfiss@cca.edu>

Dear Ren,

I wanted to provide you with an update regarding the complaint that you submitted regarding the CES Instagram post. We have continued to look into this matter and have had conversations with the faculty member who posted the post.

We will continue to follow our procedure and take a more formal approach at this time, which is to investigate this matter using an independent investigator for this process. The investigation will determine whether or not the post violates any CCA policies and will make a recommendation for a resolution. Given how sensitive this situation is, we want to make sure that everyone feels it is a fair and neutral process.

As a temporary, remedial measure pending the investigation, we will be removing the post from the Instagram account until we have an outcome from the investigation.

We expect that the investigation will take about a week, although we recognize that it might be delayed because of the holidays. Would you be able to share your availability for an interview with the investigator on or after December 28th? I understand that it's over the winter break, so let me know if that's not an option, but at the same time, we also want to be timely.

Thanks,  
Maira

On Thu, Nov 30, 2023 at 12:18 PM Maira Lazdins <mlazdins@cca.edu> wrote:

Hi Ren,

Below is the complaint that you submitted. You also attached screenshots of the post.

Thanks,  
Maira

Full name: Karen Fiss

Email address: [kfiss@cca.edu](mailto:kfiss@cca.edu)

Phone number: 5102068471

Date of the problem/complaint/issue: October 9(?) 2023

Have you already been in touch with HR in regards to this issue? If yes, please share the name of the HR contact: No. I was touch with Tricia Brand.

**Specific problem/complaint/issue:**

Critical Ethnic Studies posted on their official instagram an image of Palestinian Flags with a placard stating "Decolonization is Not a Dinner Party." I was not aware of it at first, but another (non-Jewish) colleague wrote to me of their shock at seeing it. The content of the Instagram text appears to be a thinly veiled justification for the rape, torture, beheading and brutal murders of Jews in Israel by Hamas. The message calls for "collective resistance" without condemning terrorist acts that are clearly in violation of international law. It stated "You cannot use the term "decolonize" without recognizing the toxicity and violence of settler colonialism. Decolonization is not a metaphor. Solidarity is not passive." This post was "liked" and therefore its message one assumes approved of by several of CCA's programs and the Wattis, in addition to the dean of humanities and sciences, the dean of fine arts, someone in a high position in the provost office, and other administrators and faculty. Not all my screenshots of those at CCA with administrative responsibilities who approved this post can be added to this form. I can deliver via email or otherwise.

On Wed, Nov 29, 2023 at 2:19 PM Ren Fiss <kfiss@cca.edu> wrote:

Hi Maira,

Thank you for your explanation. Could you please send me a copy of the complaint I submitted? The form did not allow me to save or receive a copy. It evidently only submitted it to your office.

Thank you  
Ren

On Wed, Nov 29, 2023 at 8:01 AM Maira Lazdins <[mlazdins@cca.edu](mailto:mlazdins@cca.edu)> wrote:

Dear Ren,

Thank you for reaching out and sharing your perspective. The College believes that free inquiry and expression are at the heart of every academic community. While firmly rejecting hate speech, antisemitism, and Islamophobia, we also recognize there may be a spectrum of views on any given topic—and that diverging opinions on substantive issues can coexist. We understand that not everyone will agree with this approach. Our focus continues to be on modeling productive and respectful disagreement within our diverse community, while preventing direct harm to individuals or groups of people by avoiding personal attacks. The shared policies likewise reflect this balance, acknowledging both the importance of individual views and the need to avoid causing harm to others. Our focus is on communicating with and working to ensure the health and safety of the diverse community on our campus—namely our students, staff, and faculty.

We appreciate you taking the time to share your perspective.

Thank you,  
Maira

On Wed, Nov 22, 2023 at 1:00 PM Maira Lazdins <[mlazdins@cca.edu](mailto:mlazdins@cca.edu)> wrote:

Dear Ren,

Thank you for your message and for submitting a concern in response to this email sent on Friday. I want to acknowledge that I received it and will respond more fully next week.

Thanks,  
Maira

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**MAIRA LAZDINS** Vice President, Human Resources (she, her)  
[mlazdins@cca.edu](mailto:mlazdins@cca.edu) | [m 240.688.1896](tel:240.688.1896)



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