

# Anti-Semitism and Jewish Identity in the Workplace

## Introduction

In 2021, the federal Equal Employment Opportunity Commission took the extraordinary step of passing a resolution condemning the rise in anti-Semitism across the country, including in the workplace.<sup>1</sup> In 2023, the United States government unveiled the U.S. National Strategy to Counter Antisemitism, a comprehensive response to the alarming growth in anti-Semitism in every aspect of American society – including in the workplace.<sup>2</sup>

In this guide, we explain the laws protecting Jewish employees from anti-Semitism in the modern workplace, including anti-Semitism against Jewish employees arising out of hostility to, and advocacy against, the Jewish state of Israel. Numerous federal, state, and local workplace anti-discrimination laws apply to Jewish employees, protecting them against unequal treatment and harassment based on their religious beliefs and their ethnic identity. For employers to meet their obligation to provide their Jewish employees with a work environment free of anti-Semitism, they must understand

these laws, be familiar with certain core aspects of Jewish identity and certain enduring anti-Semitic narratives, be able to apply a practical working definition of anti-Semitism, and understand the workplace spaces where contemporary anti-Semitism frequently manifests.

Many employers are admirably striving to improve inclusion in their workplaces by supporting employees from various identity groups. They may, for example, establish employee resource or affinity groups, celebrate heritage months and other identity recognitions, and find other ways to make all employees feel included. Unfortunately, they often fall short when it comes to Jewish employees. This may be due to ignorance or misunderstanding. For example, they may have a false impression of their Jewish employees as members of a “privileged white group” that does not require accommodation or support.

## Laws Protecting Jewish Employees

A variety of federal, state, and local laws and regulations governing workplace discrimination protect Jews based on their

religious beliefs (religious discrimination) and/or their status as a people (ethnic discrimination). Employees who are, or were, Israeli citizens are also protected from national origin discrimination. Most prominent among these laws is Title VII of the federal Civil Rights Act of 1964 (“Title VII”), which prohibits discrimination in employment based on race, color, religion, sex, or national origin.<sup>3</sup> Courts interpret “race” under Title VII to encompass ethnicity, as well.<sup>4</sup>

These anti-discrimination laws also include, at the federal level, The Civil Rights Act of 1866, which, in practical terms, protects Jewish employees in the same manner as does Title VII;<sup>5</sup> Title VI of the Civil Rights Act of 1964 (“Title VI”),<sup>6</sup> which prohibits discrimination based on race, color, or national origin in, among other circumstances, a range of employment scenarios in federally funded institutions; and U.S. Department of Labor regulations which prohibit federal contractors from discrimination in employment based on race, color, religion, sex, sexual orientation, gender identity, or national origin.<sup>7</sup>

Additionally, almost every state has anti-discrimination laws protecting employees from discrimination based on religion,

race, and national origin, as do hundreds of cities and other local governments. These state and local statutes are typically applied using the same standards as have been developed under Title VII, although some, such as the New York City Human Rights Law, which expressly grants employees more generous protections from discrimination, and employers fewer defenses,<sup>8</sup> are adjudicated in a framework that is much more favorable than Title VII to employees claiming discrimination.

Nonetheless, while variations exist among these many anti-discrimination laws, a functioning benchmark for understanding and avoiding prohibited discriminatory practices is Title VII’s admonition that anti-Semitism cannot be a “motivating factor”<sup>9</sup> behind (a) an adverse decision in recruitment, hiring, compensation, promotion, training, or other privileges of employment, or (b) the existence of an intimidating, hostile, or offensive work environment that is “severe and pervasive.”<sup>10</sup>

It is likewise a violation of Title VII to retaliate against an employee who complains of anti-Semitism,<sup>11</sup> i.e., for having “opposed any practice made an unlawful employment practice by” [Title VII] or “made a charge, testified, assisted,

or participated in any manner in an investigation, proceeding, or hearing under” [Title VII].<sup>12</sup>

Unlawful anti-Semitic discrimination can result from direct and intentional mistreatment based on an employee’s Jewish identity, or it can be the product of employment policies or practices that have an unjustified disparate impact on Jewish employees. Even where direct and intentional anti-Semitic discrimination is alleged, an employee can establish a valid claim by demonstrating that comparative non-Jewish co-workers weren’t “subject to the same performance evaluation and discipline standards.”<sup>13</sup>

### Understanding Jewish Identity

Each covered identity protected by anti-discrimination laws suffers its own forms of discrimination, shaped by the prejudices and biases that exist in society. To understand those most frequently encountered by their Jewish employees, and to thus be able to both thwart anti-Semitic behavior in the workplace and identify it when it occurs, employers need to know certain core aspects of Jewish identity and certain enduring anti-Semitic narratives.

Jews embody both a faith and a people; a population originating in ancient Israel which, following campaigns of terror and discrimination first in their homeland and later in nearly every country where Jews settled in Europe, the Middle East, and North Africa, has evolved to include an extraordinarily diverse range of religious and non-religious customs, practices, beliefs, and demographics, all rooted in common core beliefs, historical remembrances, and cultural touchstones.<sup>14</sup> In many ways, Jewish people are like [Yazidis](#), Arab Muslims, Sikhs, and many other groups. Today Jews are often targeted not only because of what they believe (i.e., their religious faith), but also because of who they are – members of the greater Jewish people, a group which is often collectively demeaned, marginalized, or ostracized. The Jewish people are also not a monolithic group, and many Jewish people also identify with other racial or ethnic groups, such as Black Jews, Asian Jews, and Hispanic Jews.

The largest Jewish population in the world can be found in the state of Israel, with Jews hailing from the Middle East and North Africa representing the greatest percentage. The United States is a very close second, with Jews descending from Eastern Europe being the largest

percentage of the American Jewish population, although American Jewry also includes substantial populations of Jews from Central Asia, including Iran and Uzbekistan; the Middle East, including Syria and Iran; and Central and South America.

Traditional Jewish observance touches every aspect of a Jew's life, built around the daily obligations of prayer and kosher observance (eating certain foods and not others), the weekly observance of the sabbath ("Shabbat," from Friday sundown until Saturday sundown), and the annual observance of holidays such as Rosh Hashana (the Jewish New Year), Yom Kippur (the Day of Atonement for one's sins), and Passover (the weeklong celebration of the Jews' liberation from slavery in Egypt).

Importantly, however, being a Jew does not turn on one's belief in Judaism or, indeed, in G-d, or on one's observance of Jewish worship, rituals, or practices. Religious belief has no bearing on whether someone is (or remains) Jewish. The Jewish faith conceives of Jews as a people. A person is Jewish if they are born to a Jewish mother – or in some iterations of Jewish belief, a Jewish mother or father – or if they have converted to Judaism.

Either way, it is not the practice of Judaism that makes or breaks one's identity as a Jew, but rather one's familial connection to the Jewish people. It is essential for employers to understand this aspect of Jewish peoplehood because employers who choose to define their obligations to their Jewish employees solely in terms of accommodating religious observance risk engaging in – or tolerating – discriminatory practices.

One common – and near-universal – element of Jewish belief and peoplehood is the centrality of the land of Israel as the Jewish ancestral homeland, the epicenter of Jewish history, the focus of much Jewish religious ritual and observance, and the locus of Jewish religious redemption.

Jewish holidays, Jewish prayers, and Jewish religious rituals significantly revolve around commemorating Jewish life in the land of Israel and anticipating – pining for – Jewish redemption in the land of Israel. Indeed, a significant number of Jewish religious obligations can only be performed in the land of Israel.

This translates for most American Jews into a deep religious and ethnic connection to the modern state of Israel. As a practical matter, it is only a Jewish

sovereign state that allows tens of thousands of American Jews to pray at the Western Wall every year, where many American Jewish children conduct their Bar and Bat Mitzvah ceremonies; that enables American Jews to visit and pray at the tomb of the patriarchs and matriarchs of the Jewish people, Abraham, Sara, Isaac, Rebecca, Jacob, and Leah; that enables American Jews to visit holy cities like Jerusalem unmolested; that allows thousands of American Jewish teens and young adults to study in Israeli Yeshivas and colleges in every year; and that enables American Jews to be buried in the land of Israel without their gravestones being vandalized and destroyed.

In large part, this is why, according to the Pew Research Center study, "Jewish Americans in 2020," 80% of American Jews say caring about the state of Israel is an essential or important part of what being Jewish means to them; nearly 60% say they personally feel an emotional attachment to Israel and follow news about Israel at least somewhat closely; and nearly half of American Jewish adults have visited Israel. These figures include a substantial number of American Jews who consider themselves only ethnically, but not religiously, Jewish.<sup>15</sup>

### Defining Anti-Semitism

If anti-Semitism is to be addressed, it must first be understood. There is one internationally adopted definition of anti-Semitism: the definition promulgated by the International Holocaust Remembrance Alliance, including its illustrative examples of contemporary manifestations of anti-Semitism (the "IHRA Definition"). The IHRA Definition grew out of definitions adopted by the European Union Monitoring Centre on Racism and Xenophobia and the U.S. State Department.<sup>16</sup> It has been adopted by dozens of countries; hundreds of local and regional governments and intergovernmental organizations in the U.S. and abroad; and domestic and international corporations.<sup>17</sup> Corporations interested in supporting their Jewish employees should consider adopting the definition themselves, as many others have done.

The IHRA Definition states:

"Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward

Jewish community institutions and religious facilities.”<sup>18</sup>

IHRA sets forth examples of anti-Semitism in several categories, including:

- Demonization, for instance by calling for, aiding, or justifying the killing of Jews; using symbols associated with classic anti-Semitism like blood libels to characterize Jews, Israel, or Israelis; engaging in classic stereotypes about Jewish power and/or control; and
- Delegitimizing the state of Israel and in doing so denying the Jewish people their equal right to self-determination;
- Imposing double standards to condemn behavior by Jews or Israelis that is not condemned in others;
- Holocaust denial, such as accusing Jews or Israel of inventing or exaggerating the Holocaust;
- Accusations of dual loyalty, such as accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews

worldwide, than to the interests of their own nations; and

- Holding Jews collectively responsible for the behavior of other Jews, Israel, or even non-Jews.<sup>19</sup>

Of course, not every critique of Israeli government policy and action is anti-Semitic, as the IHRA definition also makes clear: “[C]riticism of Israel similar to that leveled against any other country cannot be regarded as antisemitic.”<sup>20</sup> But some of it, as described above, is.

### Common Vectors of Workplace Anti-Semitism

Employers should be on guard against anti-Semitism rearing its head in their workplace, whether in making hiring, training, promotion, disciplinary or other decisions, or in comments and conversations in the dining area, on the factory floor, or in conference rooms; anywhere where an animus toward the Jewish faith or the Jewish people can manifest itself. Hostility to Jews *in toto* – or notions of Jewish clannishness or accusations that Jews are money-grubbing, for example – are bigoted sentiments in workplace settings and violate anti-discrimination laws.<sup>21</sup>

Workplace anti-discrimination training, programming, and complaint processing and resolution should be structured and conducted with this awareness.

### ***Engagement in anti-Semitic tropes***

Employers must be vigilant in guarding against erasing Jews and anti-Semitism from efforts to combat workplace discrimination and promote diversity, or worse, propagating anti-Semitic narratives as part of those efforts; at the very least, such erasure is often rooted in anti-Semitic notions of Jewish power and privilege that obscure seeing Jews as potential victims of discrimination.<sup>22</sup> If a corporate diversity/equity/inclusion (“DEI”) program refuses to include addressing anti-Semitism because of myths about Jews already having “immense power and privilege,”<sup>23</sup> the program isn’t merely ignoring anti-Semitism – it’s engaging in anti-Semitism.

Jewish employees are sometimes denied support based on the view that all Jews are socially or economically successful. This is especially true among employers who view equity and inclusion as benefits that should be provided only to certain groups that have been historically underrepresented. Such employers may see Jews as holding unmerited privilege

or unrecognized power. This ignores the many ways in which Jewish Americans are marginalized, stigmatized, excluded, assaulted, othered, and sometimes murdered, regardless of their social or economic status. It also ignores the demonstrable instances of Jewish poverty. Worse, such approaches may amplify themes of Jewish privilege, power, and control that are common in traditional anti-Semitic literature.

Other employers have been slow to support their Jewish employees because they view Jewish identity as being exclusively a religious matter. This may find expression amongst employers who provide certain benefits, such as Employee Resource Groups (ERG’s), only to ethnic or racial (and not religious) groups. This is a painful but important subject, not least because Jews have faced genocidal murder based on notions of Jewish racial difference. Judaism is unquestionably a religion shared by many Jews. Other Jews, however, do not practice the Jewish religion but still identify with Jewish peoplehood, ethnicity, ancestry, and/or culture.

Those who deny, or are ignorant of, Jewish ethnic or ancestral identity, frequently treat all Jews, or at least light-

skinned Jews, as being ethnically or racially “white.” While white supremacists commonly view Jews as non-white, those on the other end of the spectrum tend to view Jews as hyper-white.<sup>24</sup> Other commentators have been divided:

Commentators variously argue, to provide just a few examples, that Jews are obviously white, that they are definitely not white, that they are “off-white,” that they are sometimes off-white and sometimes white, that they recently became white, that they have occupied many different locations on the whiteness scale, that their shiftiness on the whiteness scale is a significant source of anxiety to others, that they are still negotiating a costly process in which they have come mostly but perhaps incompletely white, and that they should take ownership of their socially constructed status as whites because it is the only position plausibly available to them, but they should do so in solidarity to nonwhite people.<sup>25</sup>

They may be viewed as part of an oppressor class, either because they are viewed as white, or because they are

blamed for perceived wrongdoing by the government of Israel. Holding an individual responsible for the perceived wrongdoing of a group is a common feature of prejudice.

### ***Anti-Israel sentiment***

Employers should also guard against anti-Israel expressions, advocacy, or conduct that crosses the lines of ordinary political discourse, established in the IHRA definition and creates a hostile environment for Jewish employees whose connection to Israel is an essential component of their identity. There is a point where opposition to the basic rights and privileges of the Jewish state in the historic homeland of the Jewish people – to exist, to be free from terrorism, to defend its citizens, to express its identity, and to participate equally in international commerce, culture, and diplomacy – cannot be separated from animus toward Jewish identity.

Courts recognize this inextricable link between Jewish identity and Zionism.<sup>26</sup> The United States Department of Labor, in its guidance on enforcing its “Legal Protections for Religious Liberty in the Workplace” regulations, likewise recognizes the connection between



Jewish identity and a connection to Israel.<sup>27</sup>

Employers who ignore this species of workplace anti-Semitism expose their Jewish employees to potential harm and their organization to liability.<sup>28</sup>

This includes exercising extreme caution in tolerating workplace efforts to promote or effectuate the movement to boycott, divest from, and sanction the Jewish state of Israel and Jewish businesses, professionals, academics, artists, and institutions (“BDS”). Boycotts against Jews are as old as anti-Semitism itself. And the BDS movement is explicit in its aim to extinguish the Jewish state of Israel.<sup>29</sup> More than that, the BDS movement’s boycott efforts routinely stray beyond strictly Israeli institutions to include Jews wherever they live and work, and even beyond issues directly related to the Israeli/Palestinian conflict and into the tropes and narratives discussed above that have driven anti-Semitic discourse for a thousand years.<sup>30</sup>

That’s why all of America’s major Jewish communal and anti-discrimination organizations – the Anti-Defamation League, the American Jewish Committee, the Conference of Presidents of Major American Jewish Organizations; the

Jewish Federations of North America, Hadassah, the Simon Wiesenthal Center – regard BDS as fundamentally anti-Semitic,<sup>31</sup> as does the United States government.<sup>32</sup> It’s also why thirty-seven states and dozens of localities have taken a stand against BDS.<sup>33</sup>

### Solving the Problem: Listen, Learn, and Lead

To properly include their Jewish employees in the workplace, employers should “listen, learn, and lead”:

- *Listen* to their Jewish employees by letting those employees define their own identities;
- *Learn* about the spectrum of contemporary American Jewish identity and the American Jewish minority experience; and
- *Lead* by educating your workplace community about Jewish identity and anti-Semitism and ensuring Jewish employees can engage with their full identities at work, free from repercussions.

#### ***Listen to Jewish Employees***

Many Jews primarily define themselves by their Jewish identity and view that identity as playing a critical role in shaping their lived experiences – even if the ways in

which they define their identities or practice their religion otherwise vary substantially from person to person. To fully include Jewish employees in the workplace, employers must respect each employee's own definition of their respective Jewish identity.

Some Jews maintain strict observance of religious practice (including dietary rules and Sabbath observance), while other Jews place greater emphasis on shared Jewish culture and heritage (and may forgo strict observance of religious practice). Depending upon personal preferences and family histories, Jews bring different traditions (and foods!) to their celebrations of the Jewish holidays. There is no single type of Jew. Jews come in all skin colors, political persuasions, and nationalities. But all Jews are part of the Jewish people, and therefore share a common culture and heritage arising out of their shared ancestry and ethnicity.

Failing to recognize Jewish identity as unique and distinctive, and denying the existence of the Jewish people's own particular identity, culture, tradition, and history, is a contemporary form of anti-Semitism that has been called "erasive anti-Semitism."<sup>34</sup> Among other things, this form of anti-Semitism denies only Jews the

right to self-define and celebrate their own unique identity. It also erases Jewish history, including centuries of anti-Semitic discrimination and persecution, and often demands that all Jews (even Jews of color) see themselves as privileged and/or white.<sup>35</sup> In practice, this has the consequence of silencing Jewish voices from talking about their own experiences of discrimination and exclusion.<sup>36</sup>

One of the most surprising places this is happening is in contemporary diversity, equity, and inclusion ("DEI") programming. This is especially concerning because DEI programs are supposed to *address* such problems, rather than exacerbate them. In some cases, however, these programs have not just erased Jews' own, self-defined identity, but replaced it with caricatures and stereotypes reflective of [common age-old anti-Semitic discourse](#). These include, for example, conspiracy theories about Jewish power, wealth, and control. These tropes are particularly dangerous because they have led to Jews being identified as being part of, or even responsible for, discriminatory power structures in society - instead of being recognized for what they are and always have been; a minority group that itself is often targeted for discrimination.<sup>37</sup> This

type of terrible disinformation is also disturbingly common: In a 2022 Brandeis Center [webinar](#) for example, EEOC Commissioner Andrea Lucas noted instances of DEI staff “telling Jewish employees that Jews are powerful members of society who contribute to systemic racism, characterizing all Jewish people as privileged based on assumptions about their race or color, circulating conspiracy theories about COVID-19 or vaccines that blame Jews, trivializing the Holocaust by comparing it to mask or vaccine mandates, placing a swastika on a desk of a Jewish employee or via a Zoom bombing, and disproportionate criticism of Israel or conflation of all Jews with Israel.”

### ***Learn about Jewish Identity***

As part of an employer’s first step of acknowledging and including their Jewish employees as *Jews*, they must learn about common features of contemporary American Jewish identity (though each employee will, of course, define their own identity themselves). Indeed, understanding an employee’s identity may help a company avoid any potential legal exposure: employers (especially government contractors) may be liable, for instance, if an applicant or employee

suffers an adverse action based on actions or values that are or are perceived to be “part of the applicant/employee’s religion.”<sup>38</sup> Employers may also be liable if and when a hostile environment develops for their Jewish employees.<sup>39</sup> Moreover, regardless of whether a corporation would have exposure in a particular situation, preventing an anti-Semitic environment is important to maintaining an effective and productive workplace: “Antisemitism, like other forms of discrimination, can have a devastating effect on individual employees and the workplace as a whole.”<sup>40</sup>

Jewish identity has several components, and bias against Jews has a variety of historical sources.<sup>41</sup> To begin with, employers should learn about the following (described in more detail in the sections below):

- What anti-Semitism means and how to recognize it, relying on the leading (and only internationally accepted) definition of anti-Semitism;
- Common anti-Semitic stereotypes that may be used to target, harass, vilify, or exclude Jewish employees;

- The contemporary lived experience of Jews who face anti-Semitic targeting in America;
- How Jews came to be in America – primarily as the descendants of refugees from persecution;
- Jews’ identification with Israel as their ancestral homeland; and
- Jews’ need for religious accommodations at work.

Employers (and their employees) may benefit greatly from specialized training programs on Jewish identity and anti-Semitism that can deal directly with some or all of these topics.

### ***Learn about common anti-Semitic stereotypes***

One way that Jewish employees commonly experience anti-Semitism in the workplace is through the use of anti-Semitic stereotypes. Employers and DEI professionals should be familiar with the [elements of anti-Semitic discourse](#) that may create a hostile environment for their Jewish employees. As we have previously explained, these have long included false and dehumanizing stereotypes that Jews were conspiratorial; “greedy”; “dirty”; or exercised secret power; equations of Jews with animals or demons; the [deicide myth](#); and the [blood libel](#), among others.

Particularly common are false stereotypes about Jewish power, and control. Such narratives “position Jews as a worthy adversary for white supremacists or antisemites, a group to be feared and defeated[.]”<sup>42</sup> These tropes have been pushed by conspiracy theorists across the political spectrum: as Gil Troy recently explained, right-wing and left-wing anti-Semitism “meet in exaggerations about Jewish money, power, and evil.”<sup>43</sup>

In many instances, these anti-Semitic stereotypes are ignored or even reinforced in diversity trainings: Amy Schumer recently illustrated this problem [here](#). Rice University research found that 52% of Jewish respondents reported experiencing religious discrimination involving microaggressions accompanied by racial and ethnic or national origin discrimination. Jewish employees have reported incidents where they were subjected to stereotypes about Jews and money (one of the standard [elements of anti-Semitic discourse](#)), or to “little jokes” about the Holocaust. These kinds of verbal microaggressions have also included offhand comments like “Jews run all the banks” and the use of casual antisemitic phrases, i.e. “Jew me down.”<sup>44</sup>

An employer who permits any of these stereotypes to infect their office atmosphere or their DEI programming risks legal exposure as a result of an environment hostile to Jewish employees.

***Learn about anti-Semitism in America today***

Jews have resided in America since colonial times. Unfortunately, while the Founding Fathers made an effort to welcome Jews to America and envisioned the newborn United States as a land of religious tolerance, Jews in the United States have long faced anti-Semitic discrimination and sometimes even violence.<sup>45</sup>

Today, Jewish Americans are targeted for hate crimes, employment discrimination, and violent conspiracy theories (among other things) at rates far higher than most Americans. While Jews make up only 2% of the U.S. population, in 2020 they were targeted for more than 55% of the religiously-motivated hate crimes in America.<sup>46</sup> Typically, 8-10% of the religious discrimination claims the EEOC receives in a year reflect claims of anti-Semitic discrimination,<sup>47</sup> which may understate the issue: in a recent survey, more than half of Jewish workers reported encountering discrimination in the workplace.<sup>48</sup> And

violent anti-Semitic conspiracy theories have motivated a variety of recent very public hate crimes in the U.S., from Charlottesville to Colleyville, Brooklyn to Buffalo, and Pittsburgh to Poway.<sup>49</sup> Similar conspiracy theories have been also echoed by celebrities, political figures, and other influencers across the U.S. spectrum in 2022.<sup>50</sup>

Employers should understand that their Jewish employees may feel pain, grief, and fear when an anti-Semitic incident is in the news.<sup>51</sup> In particular, when they see people targeted for violence because of a characteristic they themselves share (or hear rhetoric that has previously led to such targeted anti-Jewish violence), Jewish employees may become concerned about their own safety.

Employers should ensure that their internal inclusion programming provides a supportive atmosphere for Jewish employees and that any communications explicitly acknowledge these incidents as anti-Semitic. If, for example, they commonly issue public statements denouncing acts of bias or bias-motivated violence, they should include anti-Semitic incidents the same way as incidents motivated by any other form of bias (for

instance racism, gender bias, or homophobia).

Sadly, instead of providing support, all too often DEI programs have themselves become infected with the virus of anti-Semitism. For instance, the examples EEOC Commissioner Lucas provided of anti-Semitism in diversity trainings<sup>52</sup> actually echo anti-Semitic tropes, including some of the common claims reflected in the IHRA Definition's examples of contemporary anti-Semitism. These include, for example:

- Claims that all Jews are powerful or privileged based on assumptions about their race or color, which parallel classic anti-Semitic conspiracy theories and IHRA example 2: *Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as collective — such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions;*
- Circulating conspiracy theories about COVID-19 or vaccines that blame Jews, which have the same

parallels and also sometimes reference ancient stereotypes about Jews and disease;

- Conflation of all Jews with Israel, which parallels IHRA example 11 – *Holding Jews collectively responsible for actions of the state of Israel;* and
- Disproportionate criticism of Israel, which may parallel IHRA examples 7-10.

Other incidents Commissioner Lucas mentioned invoke other common anti-Semitic themes:

- Trivializing the Holocaust by comparing it to mask or vaccine mandates in a manner that has been found to 'fuel anti-Semitism';<sup>53</sup> and
- Placing swastikas – an insignia used by Nazi Germany during the Holocaust which is commonly used by anti-Semites<sup>54</sup> and functions as "an emblem of the destruction of European Jewry"<sup>55</sup> - on the desk of a Jewish employee or in a video chat via a Zoom-bombing.

***Learn about Jews' history of persecution***

Many American Jews are the descendants of refugees from anti-Semitic persecution, particularly in Europe and the Middle East. Several Jewish holy days actually commemorate particularly violent persecution, ranging from the destruction of the Second Temple by Roman occupiers of ancient Israel to the Holocaust.

Anti-Semites commonly reference these historical traumas; the Holocaust, the Spanish Inquisition, pogroms in Eastern Europe and the Middle East, or other instances of violent anti-Semitic persecution may alternately be denied, justified, distorted, or even glorified, and associated imagery may be used to harass or threaten Jews. Examples range from swastikas in Zoom rooms to European soccer fans combining the Holocaust with contemporary anti-Semitic violence by chanting at teams associated with the Jewish community, "*Hamas, Hamas, Jews on the gas.*"<sup>56</sup>

#### ***Learn about the Jewish connection to Israel***

While individual views vary, for the vast majority of Jewish people across time and space, Israel is integral to the shared identity of what it means to be Jewish.<sup>57</sup> According to Jewish tradition, Jewish

identification with the land of Israel began with a divine commandment to Abraham, the very first Jew, to leave his birthplace and go to what today we know as the land of Israel. This [connection](#) has both religious and ethnic aspects. More than half of Judaism's 613 commandments relate to Israel and can only be fulfilled there.<sup>58</sup> But this connection also ties Jews themselves to their ancestral homeland, to each other as well as to their heritage. In short, for most Jewish people, Israel is a core part of their identity as part of the Jewish people.<sup>59</sup> Contemporarily, this connection is reflected in many Jews' identification as Zionists, i.e. those who support the Jewish people's self-determination movement<sup>60</sup> which has resulted in the establishment of the current state of Israel. While not all Jews are Zionists, most view Zionism as a core part of their identity, oftentimes separate and apart from their religious faith or lack thereof. One recent survey found that "eight-in-ten U.S. Jews say caring about Israel is an essential or important part of what being Jewish means to them," including more than two out of three Jews who identify as having no religion.<sup>61</sup>

Jewish employees' sense of connection with Israel does not make criticism of Israel anti-Semitic. Instead, as the IHRA

Definition makes clear, “criticism of Israel similar to that leveled against any other country cannot be regarded as” anti-Semitic.<sup>62</sup> Jewish employees’ sense of connection to Israel also does not in any way negate their connection to the United States: like many descendants of immigrants, Jews are by and large patriotic Americans who simply maintain emotional connections to their ancestral homeland. Indeed, as the IHRA Definition explains, “[a]ccusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations,” is an indicium of anti-Semitism.<sup>63</sup>

However, criticism of Israel may cross the line into anti-Semitism when, for example, it demonizes the Jewish state (for instance by using traditional anti-Semitic stereotypes like the blood libel); denies the Jewish people’s equal right to self-determination by delegitimizing Israel’s existence; or applies different standards of conduct to Israel than to other democratic countries.<sup>64</sup> Moreover, Jewish employees’ ethnic and religious connection with Israel may be relevant to employers’ legal obligations if Jewish employees who feel a connection to Israel as part of their ethnic or religious identity are targeted for harassment or subjected to a hostile

environment because of that real or even just perceived connection.<sup>65</sup> A corporation that permitted such an atmosphere to exist would risk exposure under federal civil rights laws.

***Learn about Jewish employees’  
needs for religious  
accommodations***

For many Jewish employees, their Jewish identity may include the observance of Jewish religious practice. While Jews’ level of adherence to religious practice varies, many Jewish employees do need to have their religious practices [accommodated](#) at work to one degree or another. For instance, Jewish holidays are not typically public holidays in America, but many religiously observant Jews have a religious obligation to [refrain from working](#) on those days. To that end, many observant Jews refrain from work between sundown Friday and nightfall Saturday on the Jewish Sabbath; and many observant Jews feel a religious obligation to wear a beard or *yarmulke* or certain types of modest attire.<sup>66</sup>

To be clear, a company need not close its office for Rosh Hashanah (the Jewish New Year) just because it closes for Christmas. However, holding *required* events on Rosh Hashanah would likely exclude religious



Jewish employees in a discriminatory fashion, since many of them may be absent that day for religious reasons. If, for example, a company held a training session on Rosh Hashana that a person was required to attend in order to receive an opportunity for promotion, this would make it unlikely for any Jewish employees to get promoted. Employees who lost out on opportunities for promotion because they were unwilling to work on Rosh Hashanah for religious reasons would be harmed in their profession by the religious component of their Jewish identity, decreasing the religious diversity of upper ranks of management – and creating a risk of exposure for the corporation under Title VII of the Civil Rights Act.

### ***Lead the fight against anti-Semitism***

As explained above, Jewish identity, and correspondingly anti-Semitism, are multifaceted matters. To avoid legal exposure and promote an effective and inclusive workplace, employers must understand Jewish identity, prevent the establishment of an anti-Semitic environment, and facilitate the inclusion of Jewish employees.

**Employers can begin by taking six concrete steps.**

First, employers should join this year's [Shine a Light](#) campaign. Shine a Light is a purpose-driven convening platform inspired by the [Chanukah holiday](#), in which dozens of corporations, associations, Jewish organizations, and other groups come together to “shine a light on” and combat anti-Semitism in all its modern forms.

Second, many corporations have established [employee resource groups](#) (ERGs) to facilitate the inclusion of employees of different backgrounds in their workplace and give employees of a particular background space to raise and address issues they share. Employers should also establish ERGs for their [Jewish employees](#), and many have begun to do so. In The U.S. National Strategy to Counter Antisemitism, the Biden Administration called on all American employers to promote Jewish ERGs and to “work with these groups, especially in issuing both internal and external statements when instances of antisemitism arise.”<sup>67</sup> These ERGs would connect Jewish employees to company leadership, making it easier to collectively communicate broader workplace equity and inclusion concerns; allow employees to represent and express themselves on their own terms, and to do so collectively

and anonymously, without fear of retribution; and at the same time foster networking and career advancement opportunities within the company.<sup>68</sup>

Third, employers should [include Jewish identity](#) in DEI programming to facilitate Jewish employees' full inclusion in the workplace. To do this properly, employers should center representative Jewish voices; respect the diversity of Jewish identity; avoid anti-Jewish stereotypes; eschew simplistic oppressor/oppressed dichotomies; and communicate that they take anti-Semitic harassment and discrimination as seriously as other forms of discrimination, and will treat it no differently.<sup>69</sup> As EEOC Commissioners Keith Sonderling and Andrea Lucas have emphasized, employers should actively audit their DEI programs to ensure that they are not inadvertently promoting anti-Semitic defamations or <sup>70</sup><sup>71</sup><sup>72</sup>

Fourth, employers should review their [religious accommodation](#) policies to ensure they are in compliance with applicable law and their own corporate values, so that no employee's religion limits their opportunities to participate or advance in the workplace. Once employers have ensured their policies are in compliance, they should inform

employees that they will make reasonable religious accommodations and train applicable staff to process accommodation requests fairly and efficiently.

Fifth, employers should ensure that their anti-harassment and anti-discrimination policies address the most common contemporary forms of anti-Semitic harassment and discrimination.

Sixth, employers should use their voices to denounce anti-Semitism when it impacts their employees and work environments the same way as they do for other forms of bigotry.

## Conclusion

This guide is meant to highlight some of the most prominent concerns surrounding antisemitism in the workplace and will hopefully prompt further investigation and investment in identifying and dealing with the underlying illnesses that fuel this never-ending hatred. This is true not only because it is simply wrong to be antisemitic, but also because history has shown that anti-Semitism is often a form of gateway racism; the proverbial "canary in the coal mine of intolerance." As Ahmed Shaheed, the United Nations Special Rapporteur on freedom of religion or

belief noted in his recent Human Rights Council report on antisemitism, “antisemitism, if left unchecked ... poses risks not only to Jews, but also to members of other minority communities. Antisemitism is toxic to democracy and mutual respect of citizens and threatens all societies in which it goes unchallenged.”<sup>73</sup>

In order for employers to meet their legal obligation to provide their Jewish employees with a work environment free of anti-Semitism, employers must understand that these laws protect Jews both as practitioners of a religion and as a people; that for most Jews a connection to the state of Israel is an inextricable element of their Jewish identity; that enduring anti-Semitic narratives that demonize and delegitimize Jewish identity will find contemporary carriers to manifest themselves in the workplace; that the IHRA working definition of anti-Semitism is an indispensable tool for preventing and addressing anti-Semitism; and that anti-Semitism can manifest itself even in the most progressive spaces in the workplace.

#### Contact Us

**Web:** [www.brandeiscenter.com](http://www.brandeiscenter.com)

**Phone:** 202-559-9296

**E-mail:** [info@brandeiscenter.com](mailto:info@brandeiscenter.com)

**Address:** 1717 Pennsylvania Ave NW, Suite 1025

Washington, D.C. 20006

**Facebook:** Louis D. Brandeis Center for Human Rights Under Law

**Twitter:** @brandeiscenter

#### About the Brandeis Center

The Louis D. Brandeis Center for Human Rights Under Law is an independent, unaffiliated, nonprofit corporation established to advance the civil and human rights of the Jewish people and promote justice for all. LDB engages in research, education, and legal advocacy to combat the resurgence of anti-Semitism on college and university campuses, in the workplace, and elsewhere. It empowers students by training them to understand their legal rights and educates administrators and employers on best practices to combat racism and anti-Semitism. It is not affiliated with the Massachusetts University, the Kentucky law school, or any of the other institutions that share the name and honor the memory of the late U.S. Supreme Court justice.

<sup>1</sup> Resolution of the U.S. Equal Employment Opportunity Commission Condemning Violence, Harassment, and Bias Against Jewish Persons in the United States, May 26, 2021, accessible at <https://www.eeoc.gov/resolution-us-equal-employment-opportunity-commission-condemning-violence-harassment-and-bias-0>

<sup>2</sup> U.S. National Strategy to Counter Antisemitism, pgs. 19-20, May 2023, accessible at <https://www.whitehouse.gov/wp-content/uploads/2023/05/U.S.-National-Strategy-to-Counter-Antisemitism.pdf>

<sup>3</sup> 42 U.S.C. § 2000e-2(a)(1).

<sup>4</sup> See *Village of Freeport v. Barrella*, 814 F.3d 594, 607 (2d Cir. 2016) (“To be clear, a claim of discrimination based on Hispanic ethnicity or lack thereof may *also* be cognizable under the rubric of national-origin discrimination, depending on the particular facts of each case. We hold only that for purposes of Title VII, ‘race’ encompasses ethnicity, just as it does under § 1981.”)

<sup>5</sup> 42 U.S.C. § 1981

<sup>6</sup> 42 U.S.C. § 2000d

<sup>7</sup> 41 CFR 60-1.4

<sup>8</sup> NYC Administrative Code § 8-130.

<sup>9</sup> 42 U.S.C. § 2000e-2(m) (2018) (“Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a motivating factor for any employment practice, even though other factors also motivated the practice.”).

<sup>10</sup> *Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 21 (1993)

<sup>11</sup> 42 U.S.C. § 2000e-3(a).

<sup>12</sup> *de Souza v. Planned Parenthood Fed’n of Am., Inc.*, No. 21 CIV. 5553 (LGS), 2022 WL 2047580, at \*2 (S.D.N.Y. June 7, 2022).

<sup>13</sup> *Levy vs. Legal Aid Society*, 408 F.Supp.3d 209, 214 (E.D.N.Y. 2019)

<sup>14</sup> See Jacob Neusner, “Jew and Judaist, Ethnic and Religious,” in Craig R. Prentiss, *Religion and the Creation of Race and Ethnicity: An Introduction* (2003), pp. 85-100.

<sup>15</sup> “Jewish Americans in 2020,” Pew Research Center, May 11, 2021

<sup>16</sup> Brandeis Center, The Louis D. Brandeis Center FAQs About Defining Anti-Semitism, p.1, [https://brandeiscenter.com/wp-content/uploads/2017/10/guide\\_faqs\\_antisemitism-2022c.pdf](https://brandeiscenter.com/wp-content/uploads/2017/10/guide_faqs_antisemitism-2022c.pdf).

<sup>17</sup> *Id.*, pp.2-3.

<sup>18</sup> IHRA Working Definition of Antisemitism, May 26, 2016, accessible at <https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-antisemitism>

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> See e.g. *Nidzon v. Konica Minolta Bus. Sols., USA, Inc.*, 752 F. Supp. 2d 336, 343 (S.D.N.Y. 2010)(unlawful anti-Semitic discriminatory intent evident in denying Jewish employee a raise in statements such as “you know how cheap Jews are”); *Mandell v. Cnty. of Suffolk*, 316 F.3d 368, 374 (2d

Cir. 2003) (“Plaintiff] has repeatedly been a target of anti-Semitic remarks and taunting, such as being called ‘that Jew’ and ‘Jewboy’ and being told that all Jews stick together, and was subjected to insulting and demeaning conduct by fellow officers.”); *Feingold v. New York*, 366 F.3d 138, 145 (2d Cir. 2004)(creating an atmosphere where a Jewish employee was specifically diminished in relation to his Christian colleagues contributes to an unlawfully anti-Semitic hostile work environment).

<sup>22</sup> See e.g. Ben Freeman, “Erasive Antisemitism – Naming a Subcategory of Antisemitism,” (Sep. 20, 2020), accessible at <https://benmfreeman.medium.com/erasive-antisemitism-cc71bf7259bb>; “Erasive Anti-Semitism: A New Threat Arising Within Contemporary Progressive Discourse,” Policy Paper – Version A, THE REUT GROUP, (Mar. 15, 2021), accessible at [https://www.reutgroup.org/\\_files/ugd/7c17af\\_84e28f582f534a72ad467e7830f166d5.pdf](https://www.reutgroup.org/_files/ugd/7c17af_84e28f582f534a72ad467e7830f166d5.pdf).

<sup>23</sup> “DEI Training Gone Wrong?,” Redden, E., (Inside Higher Ed, June 15, 2021), accessible at <https://www.insidehighered.com/news/2021/06/16/eec-complaint-against-stanford-alleges-dei-program-created-hostile-environment>

<sup>24</sup> Pamela Paresky, “Critical Race Theory and the ‘Hyper-White’ Jew,” Sapir Journal (Spring 2021), <https://sapirjournal.org/social-justice/2021/05/critical-race-theory-and-the-hyper-white-jew/>

<sup>25</sup> Kenneth L. Marcus, *Jewish Identity and Civil Rights in America* (Cambridge, U.K.: Cambridge University Press, 2010), pp. 137-38.

<sup>26</sup> See e.g., *Landa v. Univ. of Maryland, Coll. Park*, No. TJS-22-0016, 2022 WL 2905094, at \*7 (D. Md. July 22, 2022) (punishing plaintiff for her Zionist beliefs and advocacy sufficiently states a claim of Title VII religious discrimination where plaintiff asserts that “Zionism is a core and fundamental part of her Jewish religious identity” and that “her Zionism is part and parcel of her Judaism”).

<sup>27</sup> Guidance re 41 C.F.R. § 60-50.2, accessible at <https://www.dol.gov/agencies/ofccp/opinion-letters/ReligiousLiberty>

<sup>28</sup> “NYC legal aid group forced to apologize, pay \$170K over anti-Semitism claim,” Campanile, C., (N.Y. Post, Mar. 8, 2023)

<sup>29</sup> See e.g., “Racism and Racial Discrimination are the Antithesis of Freedom, Justice & Equality” (Palestinian BDS National Committee, Mar. 7, 2017), accessible at <https://bdsmovement.net/news/racism-and-racial-discrimination-are-antithesis-freedom-justice-equality> (“We reject Zionism, as it constitutes the racist and discriminatory ideological pillar of Israel’s regime of occupation, settler colonialism and apartheid that has deprived the Palestinian people of its fundamental human rights since 1948.”); “Is B.D.S. Anti-Semitic? A Closer Look at the Boycott Israel Campaign,” Halbfinger, D., Wines, M., Erlanger, S. (N.Y. Times, July 27, 2019) (“A Jewish state in Palestine in any shape or form cannot but contravene the basic rights of the indigenous Palestinian population and perpetuate a system of racial discrimination that ought to be opposed categorically,” Omar Barghouti, co-founder, Palestinian B.D.S. National Committee, and BDS spokesman).

<sup>30</sup> See e.g., “BDS-promoted mapping project is antisemitic and must be condemned,” Trestan, R., Boston Globe, June 14, 2022); “FAQs on the Boston Mapping Project,” accessible at <https://www.adl.org/boston-mapping-project>

<sup>31</sup> <https://www.adl.org/resources/backgrounder/boycott-divestment-and-sanctions-campaign-bds>; <https://www.ajc.org/news/bds-is-antisemitic>; <https://conferenceofpresidents.org/press/conference-of-presidents-welcomes-signing-of-anti-bds-executive-order-in-new-hampshire-36-states-have-now-taken->

action-against-bds/; <https://www.jewishfederations.org/about-jfna/washington-dc/advocacy/>;  
<https://www.hadassah.org/policy-statement/combating-delegitimization-of-israel/>;  
<https://www.wiesenthal.com/about/news/act-now-fight-the-boycott.html>

<sup>32</sup> <https://2017-2021.state.gov/identifying-organizations-engaged-in-anti-semitic-bds-activities/>

<sup>33</sup> <https://www.jewishvirtuallibrary.org/anti-bds-legislation>

<sup>34</sup> *E.g.* Ben Freeman, Erasive Antisemitism – Naming a Subcategory of Antisemitism, <https://benmfreeman.medium.com/erasive-antisemitism-cc71bf7259bb>; Reut Group, Erasive anti-Semitism, <https://www.reutgroup.org/Publications/ERASIVE-ANTI-SEMITISM>.

<sup>35</sup> Ben Freeman, Erasive Antisemitism – Naming a Subcategory of Antisemitism, <https://benmfreeman.medium.com/erasive-antisemitism-cc71bf7259bb>.

<sup>36</sup> *E.g.* Reut Group, Erasive anti-Semitism, <https://www.reutgroup.org/Publications/ERASIVE-ANTI-SEMITISM>, pp.5-6.

<sup>37</sup> *E.g.* Anti-Defamation League, Stand up against anti-Semitism in the Workplace, [https://www.adl.org/sites/default/files/pdfs/2022-06/2668\\_ADL\\_Antisemitism%20and%20DEI.pdf](https://www.adl.org/sites/default/files/pdfs/2022-06/2668_ADL_Antisemitism%20and%20DEI.pdf).

<sup>38</sup> *E.g.* Office of Federal Contract Compliance Programs, *Legal Protections for Religious Liberty in the Workplace*, Jan. 8, 2021, <https://www.dol.gov/agencies/ofccp/opinion-letters/ReligiousLiberty>.

<sup>39</sup> *E.g. Harris v. Forklift Systems, Inc.*, 510 U.S. 17 (1993); 29 CFR § 1606.8.

<sup>40</sup> Matt Gonzales, Combating Anti-Semitism in the Workplace, Society for Human Resources Management (quoting Commissioner Andrea Lucas), Feb.1, 2022, <https://www.shrm.org/resourcesandtools/hr-topics/behavioral-competencies/global-and-cultural-effectiveness/pages/combating-antisemitism-in-the-workplace.aspx>.

<sup>41</sup> *E.g.* Kenneth L. Marcus, Jurisprudence of the New Anti-Semitism, 44 Wake Forest L. Rev. 101, 123-137 (2009).

<sup>42</sup> Mira Fox, Is Saying Jews are Wealth and Powerful Really a Compliment?, The Forward, November 30, 2022, <https://forward.com/culture/526576/compliment-antisemitism-jews-are-wealthy-and-powerful/>.

<sup>43</sup> *E.g.* Gil Troy, The New Anti-Semitism, Jewish Journal, Nov. 10, 2022, <https://brandeiscenter.com/the-new-jew-hatred-jewish-journal/>.

<sup>44</sup> Rachel C. Schneider, Deidra Carroll Coleman, Elaine Howard Ecklund, and Denise Daniels, “How Religious Discrimination is Perceived in the Workplace: Expanding the View,” *Socius: Sociological Research for a Dynamic World*, Volume 8: 5, <https://journals.sagepub.com/doi/pdf/10.1177/237802312111070920>

<sup>45</sup> *E.g.* Anti-Defamation League, Antisemitism in American History, <https://antisemitism.adl.org/antisemitism-in-american-history/>.

<sup>46</sup> Federal Bureau of Investigation, Crime Data Explorer, <https://crime-data-explorer.fr.cloud.gov/pages/explorer/crime/hate-crime>.

<sup>47</sup> See Combatting anti-Semitism in the Workplace, Brandeis Center Webinar, January 10, 2022, <https://brandeiscenter.com/resources/videos/> (26:30-28:05).

<sup>48</sup> Rachel C. Schneider, Deidra Carroll Coleman, Elaine Howard Ecklund, and Denise Daniels, “How Religious Discrimination is Perceived in the Workplace: Expanding the View,” *Socius: Sociological Research for a Dynamic World*, Volume 8: 1–14, <https://journals.sagepub.com/doi/pdf/10.1177/23780231211070920>.

<sup>49</sup> *E.g.* Kenneth L. Marcus, *The Buffalo Massacre Was More Than Meets the Eye*, JEWISH JOURNAL, May 19, 2022, <https://jewishjournal.com/commentary/opinion/348675/the-buffalo-massacre-was-more-than-meets-the-eye/>.

<sup>50</sup> *E.g.* Gil Troy, The New Anti-Semitism, Jewish Journal, Nov. 10, 2022, <https://brandeiscenter.com/the-new-jew-hatred-jewish-journal/>.

<sup>51</sup> *E.g.* Jordan Nathaniel Fenster, Why Jews in CT and around the country are frightened amid rising antisemitism, Houston Chronicle, November 14, 2022, <https://www.chron.com/connecticut/article/Why-Jews-are-frightened-amid-rising-antisemitism-17558728.php>.

<sup>52</sup> Brandeis Center, EEOC Commissioner calls Allegations of anti-Semitism at Stanford “Deeply Troubling”, <https://brandeiscenter.com/eec-commissioner-calls-allegations-of-anti-semitism-at-stanford-deeply-troubling/>.

<sup>53</sup> *E.g.* Yahoo! News, Holocaust tropes in COVID protests ‘fuel anti-Semitism’, Jan. 27, 2022, <https://news.yahoo.com/holocaust-tropes-covid-protests-fuel-164524490.html>.

<sup>54</sup> Courts have found that evidence of swastika graffiti in schools supported a conclusion that Jewish students had been subjected to anti-Semitic harassment. *E.g. T.E., O.C., & D.C. v. Pine Bush Cent. Sch. Dist.*, 58 F. Supp. 3d 332, 357 (S.D.N.Y. 2014).

<sup>55</sup> *E.g.* Kenneth L. Marcus, Jurisprudence of the New Anti-Semitism, 44 Wake Forest L. Rev. 101, 145 (2009).

<sup>56</sup> *E.g.* Jenni Fink, “ Hamas, Hamas, Jews on the gas”: Dutch Police Investigating Anti-Semitic Chant Ahead of Soccer Game, Newsweek, April 21, 2021, <https://www.newsweek.com/hamas-hamas-jews-gas-dutch-police-investigating-anti-semitic-chant-ahead-soccer-game-1585469>.

<sup>57</sup> Kenneth L. Marcus, *The Definition of Anti-Semitism* (Oxford University Press 2010), pp. 181-185.

<sup>58</sup> Alyza D. Lewin, Recognizing Anti-Zionism as an Attack on Jewish Identity, 68 Cath. U. L. Rev. 643, 643-644 (2019), <https://scholarship.law.edu/lawreview/vol68/iss4/8>.

<sup>59</sup> *E.g.* Alyza D. Lewin, American Jews must use both Jewish pride and the law to defeat anti-Semitism, Jewish News Syndicate, Nov. 10, 2022,

<https://www.jns.org/opinion/american-jews-must-use-both-jewish-pride-and-the-law-to-defeat-anti-semitism/>.

<sup>60</sup> E.g. Ahmed Shaheed, Report of the Special Rapporteur on Freedom of Religion or Belief, U.N. Doc. A/74/358, 20 September 2019 (“Shaheed Anti-Semitism Report”), para.17, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/289/00/PDF/N1928900.pdf?OpenElement>.

<sup>61</sup> Pew Research Center, Jewish Americans in 2020, May 11, 2021, <https://www.pewresearch.org/religion/2021/05/11/u-s-jews-connections-with-and-attitudes-toward-israel/>.

<sup>62</sup> IHRA Definition.

<sup>63</sup> IHRA Definition, Example Six.

<sup>64</sup> E.g. Natan Sharansky, Antisemitism in 3-D, *The Forward*, Jan. 21, 2005, <https://forward.com/opinion/4184/antisemitism-in-3-d/>. See U.S. Commission on Civil Rights, Briefing Report: Campus anti-Semitism, July 2006, p.3, <https://www.usccr.gov/pubs/docs/018506campusantibrief07.pdf> (“Anti-Semitic bigotry is no less deplorable when camouflaged as anti-Israelism or anti-Zionism”).

<sup>65</sup> Analogously, OFCCP has determined that federal contractors and subcontractors may be liable if they permit adverse actions against employees based on their membership in a religious community that is or is perceived to be supportive of the state of Israel. <https://www.dol.gov/agencies/ofccp/opinion-letters/ReligiousLiberty>.

<sup>66</sup> See generally Brandeis Center, Religious Accommodations in the Corporate Workplace, <https://brandeiscenter.com/wp-content/uploads/2022/10/religious-accommodations-factsheet-v4-1.pdf>.

<sup>67</sup> <https://www.whitehouse.gov/wp-content/uploads/2023/05/U.S.-National-Strategy-to-Counter-Antisemitism.pdf>

<sup>68</sup> <https://www.law.com/newyorklawjournal/2023/06/20/bidens-national-strategy-to-counter-antisemitism-expects-corporate-america-to-recognize-jewish-employee-resource-groups-so-does-federal-law/>;  
<https://isca.indiana.edu/conferences/webinars/Aleksandra-Gliszczynska-Grabias.html>

<sup>69</sup> E.g. Project Shema, Anti-Semitism and DEI, available at <https://drive.google.com/file/d/170NWD93zl75-ljbXUeAIA8iPWjyGXLbS/view>.

<sup>72</sup> <https://brandeiscenter.com/eeoc-commissioner-calls-allegations-of-anti-semitism-at-stanford-deeply-troubling/>

<sup>73</sup> Ahmed Shaheed (Special Rapporteur on Freedom of Religion or Belief), *The Elimination of all forms of Religious Intolerance*, U.N. Doc. A/74/358 (Sept. 23, 2019). See *infra* for reasons why this might be the case.





# BRANDEIS CENTER

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