

Combating Antisemitism in the Workplace

A conversation with Commissioners
Andrea Lucas and Keith Sonderling of the
U.S. Equal Employment Opportunity
Commission





What is Antisemitism?

The International Holocaust Remembrance Alliance (IHRA) defines antisemitism as:

"[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."

This definition has been adopted by both the Trump and Biden Administrations.

IHRA's Contemporary Examples of Antisemitism



- Calling for, aiding, or justifying the killing or harming of Jews (often in the name of a radical ideology or extremist view of religion).
- Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as a collective.
- Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, the state of Israel, or even for acts committed by non-Jews.
- Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust.
- 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.



Recent Rise in Antisemitism

The American Jewish Committee (AJC) reports that for American Jews over the past year:

- **One out of every four** have been victims of antisemitic incidents—physical attacks, remarks in person, or remarks online.
- **39%** have changed their behavior, including limiting their activities and concealing their Jewishness, due to concerns about antisemitism.

The situation is ***even worse*** for the younger generation:

- The Brandeis Center found that **65%** of openly Jewish college students felt unsafe and **50%** hid their Jewish identity.
- **One out of every three** Jewish college students personally experienced antisemitism, according to a survey by ADL and Hillel International.



Recent Rise in Antisemitism

The AJC report also found a **significant gap** in concern over antisemitism between American Jews and the general public.

Q1: Is antisemitism a problem in the US today?
Q2: Has antisemitism in the US increased in the past 5 years?



Workplace Antisemitism In The News



OPINION
BRET STEPHENS

The New Racism Won't Solve the Old Racism

June 28, 2021

THE WALL STREET JOURNAL.

U.S. Politics Economy Business Tech Markets Opinion Books & Arts Real Estate Life & Work WSJ Magazine Sp

Google Removes Diversity Executive Over Blog Post About Jews

Kamau Bobb has apologized for 2007 post saying Jews had 'insatiable appetite for war'

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Horror Stories from Stanford Diversity, Equity, and Inclusion Program

"By endorsing an anti-Semitic narrative that designates Jews collectively as 'oppressors,' responsible for systemic racism, while simultaneously denying Jewish ancestral identity, the DEI program fosters anti-Jewish sentiment and encourages hostility toward Jews."

JOSH BLACKMAN | 6.16.2021 2:41 PM

Thursday, January 6, 2022
Today's Paper

The Philadelphia Inquirer

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Philly's commerce director has resigned after reports of anti-Semitic remarks and staff abuse

The resignation comes after senior department leaders and other staff have left the office over the last year, with some blaming their departures on Rashid's allegedly abusive behavior.



Tech exec resigns after antisemitic vaccination conspiracy theory email

BY JOSEPH CHOI - 01/05/22 12:26 PM EST

472 COMMENTS

SCBW's April Powers Admits 'Horrific Antisemitism' Played Part in Her Resignation

David Lange | Jul 1, 2021



April Powers, the Chief Equity and Inclusion Officer for The Society of Children's Book Writers and Illustrators who issued a statement condemning antisemitism and was then condemned by antisemiters for not including Islamophobia in the statement – ultimately leading to her resignation – has [posted](#) on Facebook a short message of thank you for the support she has received.

Workplace Antisemitism In The News



August 10, 2021

Google, Unilever Receive "F" in Response to Rising Antisemitism in Corporate America

Top US corporations including **Google** and Unilever have been given an 'F' rating for their responses to antisemitism in a new report by a Jewish advocacy group.

The report, published by StopAntisemitism.org, rated 25 business behemoths and found many to be lacking.

INSIDER

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A school staff member was placed on leave after making third-grade students reenact scenes from the Holocaust, reports say

'Diversity' Efforts Fomenting Antisemitism, Rabbis Say

December 19, 2021

Coalition for Jewish Values (CJV), representing over 2,000 traditional, Orthodox rabbis in American public policy, called today upon universities to abandon "diversity, equity and inclusion" (DEI) efforts, pending a comprehensive review to ensure that such programs do not promote antisemitic bias. A recent Heritage Foundation paper entitled "Inclusion Delusion: The Antisemitism of Diversity, Equity, and Inclusion Staff at Universities" determined that "Rather than promoting diversity and inclusion, universities may be contributing to an increase in anti-Jewish hatred by expanding DEI staff and power."



Federal Laws Prohibiting Discrimination



- Many Federal statutes prohibit antisemitic discrimination:
 - Title VI
 - Title VII
 - Fair Housing Act
 - Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act
 - Church Arson Prevention Act
 - Religious Land Use and Institutionalized Persons Act
- Today our focus is on the employment discrimination laws that the EEOC enforces, particularly Title VII.

The EEOC & Its Jurisdiction



- Enforces Federal laws prohibiting employment discrimination.
- These laws protect you against employment discrimination based on **antisemitism**, including:
 - Unfair or differing (“disparate”) treatment.
 - Harassment by managers, co-workers, customers, or others in or impacting your workplace.
 - Denial of a reasonable workplace accommodation that you need because of your religious beliefs.
 - Retaliation because you complained about job discrimination, or assisted with a job discrimination investigation or lawsuit.

EEOC Resolution Condemning Antisemitism



- On May 27, 2021, the EEOC unanimously approved a resolution denouncing the recent rise in antisemitism in the United States.
- The EEOC "condemns in the strongest possible terms the recent violence, harassment, and acts of bias against Jewish persons; expresses our heartfelt sympathy to and solidarity with victims and their families; and reaffirms our commitment to combat religious, ethnic, and national origin-based harassment and all other forms of unlawful discrimination and to ensure equal opportunity, inclusion, and dignity for all throughout America's workplaces."

Unlawful Antisemitism At Work Is Broader Than You May Think



- Religious accommodations at work do require a sincere religious (or areligious) belief.
- But while antisemitic discrimination or harassment often is based on religion, it also or alternatively may involve other protected characteristics.
 - Depending on the facts, antisemitism could involve discrimination, harassment, or retaliation related to national origin, race, color, or even genetic information.
- Secular Jewish employees can still challenge antisemitic discrimination or harassment that arises at or impacts the workplace—there is no requirement for a level of religious observance.



Title VII

- Title VII protects applicants and employees from employment discrimination based on their race, color, religion, sex, national origin, or protected activity.
- Title VII defines “religion” as including “all aspects of religious observance and practice, as well as belief.”
- Title VII protects applicants and employees from several different types of discrimination in employment.



Title VII

Disparate Treatment: Title VII prohibits discrimination based on a person's religion, national origin, or other protected characteristic in hiring, promotion, discharge, compensation, or other "terms, conditions or privileges" of employment.

Examples:

- Firing or not hiring someone because the person is Jewish (unless an exception applies, e.g., religious employer, ministerial exception)
- Paying someone less because person is Jewish
- Not promoting someone because employee is Jewish

Title VII



Job Segregation: Title VII prohibits an employer from limiting, segregating, or classifying applicants or employees based on their religion, national origin, or other protected characteristic.

Examples:

- Assigning a Jewish employee to a non-customer contact position because of actual or feared customer preference
- Forcing or pressuring Jewish employees to attend affinity groups or separate diversity training based on their perceived race or color, religion, or national origin
- Instituting a generally-applicable policy prohibiting employees from wearing head coverings in customer-facing job positions, and refusing any religious accommodations



Title VII

Reasonable Accommodation: Title VII requires an employer to reasonably accommodate the religious observances, beliefs, and practices of applicants and employees, unless doing so would pose an undue hardship on the employer's business.

Examples:

- Adjusting Jewish employee's work schedule so that employee can observe the Sabbath or religious holiday
- Granting Jewish employee exemption from employer's vaccine mandate
- Providing Jewish employee with exception to policy against head coverings or facial hair
- Granting exemption from portion of training which would require Jewish employee to affirm certain practices or beliefs in conflict with religious beliefs

Title VII



Harassment: Title VII prohibits the harassment of employees, such as offensive remarks about actual or perceived national origin or religious beliefs or practices of applicants and employees, or based on other protected characteristics.

Examples of conduct that could contribute to a hostile work environment:

- Using or failing to address antisemitic slurs or statements in workplace (including digital forums, e.g., social media, relating to or impacting work)
- Placing swastika on desk of Jewish employee or via a "Zoom bombing"
- Telling Jewish employees that Jews are powerful members of society who contribute to systemic racism
- Circulating conspiracy theories about COVID-19 or vaccines that blame Jews

Title VII



Harassment: Title VII prohibits the harassment of employees, such as offensive remarks about actual or perceived national origin or religious beliefs or practices of applicants and employees, or based on other protected characteristics.

Other examples of conduct that could contribute to a hostile work environment:

- Characterizing all Jewish people as privileged based on assumptions about their race or color
- Trivializing the Holocaust by comparing it to mask or vaccine mandates
- Mocking female Orthodox Jewish employee for modest clothing
- Disproportionate criticism of Israel, or conflation of all Jews with Israel

Title VII



Retaliation: Title VII prohibits retaliation against an individual for opposing employment practices that discriminate based on religion or national origin, or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under Title VII.

Examples:

- Transferring employee involuntarily to another job after she complained to supervisor regarding antisemitic harassment
- Demoting employee after he filed charge alleging religious discrimination
- Firing employee because she complained about mandatory work groups segregated by protected characteristics
- Placing teleworking employee on unpaid leave after he requested religious accommodation from mandatory COVID-19 vaccination policy

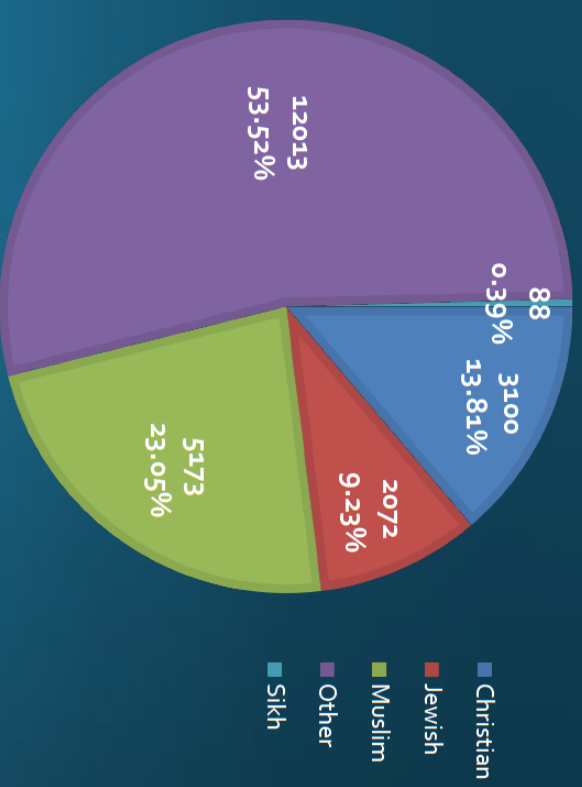
EEOC Religious Discrimination Charges



- From FY 2014 to FY 2020, the EEOC received 22,300 charges (roughly 3000 per year) alleging religious discrimination under Title VII.
- Jewish charging parties usually comprise 8-10% of individuals who file religious discrimination charges with the EEOC each year. Specifically, Jewish charging parties filed:

Fiscal Year	2014	2015	2016	2017	2018	2019	2020
No. of Charges	316	301	326	322	306	257	244
% of Total	8.87	8.57	8.45	9.32	10.63	9.33	10.08

RELIGIOUS BREAKDOWN OF CHARGES RECEIVED, ALL YEARS



NOTE: The number for Religion-Based charges by fiscal year reflects the number of individual charge filings. Because individuals often file charges claiming multiple types of discrimination, the number of total charges for any given fiscal year will be less than the total for the seven types of religion discriminations listed.

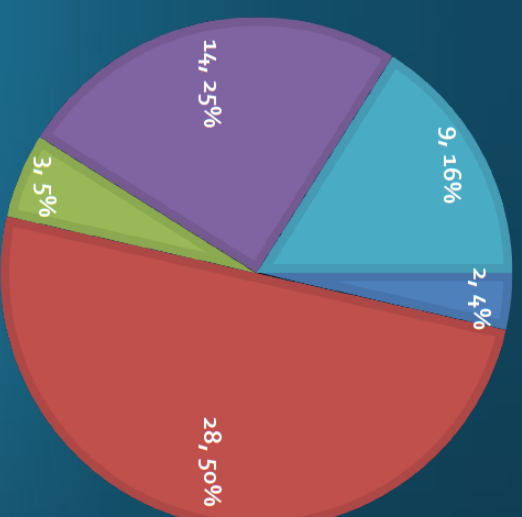
EEOC Religious Discrimination Cases



Cases Filed										
Fiscal Year	2014	2015	2016	2017	2018	2019	2020	2021	Total	
Cases Filed	8	5	6	12	9	6	5	5	56	

- Since 2014, only 3 cases were filed on behalf of Jewish parties

RELIGIOUS BREAKDOWN OF ALL CASES FILED, ALL YEARS



- Buddhist
- Christian
- Jewish
- Muslim
- Other

Best Practices for Employers



- Speak up unequivocally in support of Jewish employees and against antisemitism
- Consider forming voluntary faith-based employee resource groups, either inter-faith or specifically for Jewish employees
- Provide clear guidance about inappropriate statements and postings on social media/online (both official and company-affiliated forums, and employee personal pages), including content involving antisemitism
- Have clear policy about religious accommodations (including whom to contact) that includes an interactive process, and educate and train on policy
- Specifically address antisemitism in anti-harassment, anti-discrimination, and diversity trainings, initiatives, and policies
- Carefully audit DEI/anti-racism content, and provide implementation training, to ensure that these efforts do not contribute to antisemitism—including through assumptions/stereotypes of power, privilege, racial identity or conclusions based on racial/ethnic disparities



Best Practices for Employees

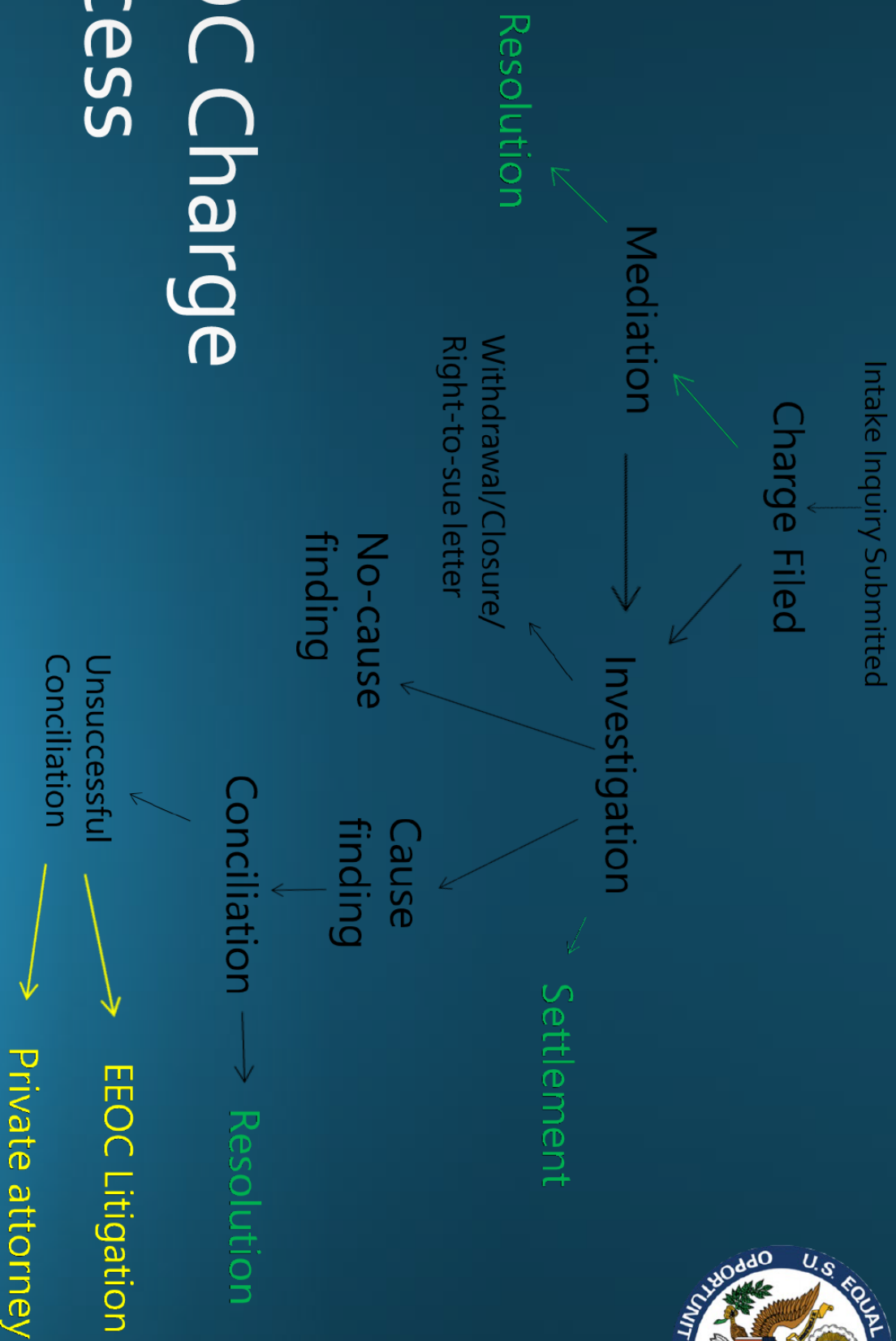
- Educate yourself about your rights
- If you experience antisemitism at work, from a coworker, or in a forum that impacts work:
 - If you feel comfortable, speak up against the statements or conduct as they occur
 - Report misconduct to management and/or HR
 - Consider filing an EEOC charge
- If you are a bystander to antisemitism, speak up against it
- Advocate for the formation of faith-based employee resource groups (ERGs)



Filing a Charge of Discrimination

The laws enforced by the EEOC, except for the Equal Pay Act, require you to file a charge before you can file a lawsuit for unlawful discrimination.

- Time Limit: Where the discrimination took place can determine how long you have to file a charge – 180-calendar days is the default unless a state or local agency enforces a state or local law that prohibits employment discrimination on the same basis.
- How to File:
 - Online: <https://publicportal.eeoc.gov>
 - In Person at an EEOC Office
 - By Mail
 - At a State or Local Fair Employment Practice Agency
- Please visit www.eeoc.gov for more information on how to file a charge of discrimination. The website also contains a variety of information about the laws that the EEOC enforces.



EEOC Charge Process



Questions?

Appendix



EEOC Resources

- [Resolution of the U.S. Equal Employment Opportunity Commission Condemning Violence, Harassment, and Bias Against Jewish Persons in the United States | U.S. Equal Employment Opportunity Commission \(eEOC.gov\)](#)
- [Section 12: Religious Discrimination | U.S. Equal Employment Opportunity Commission \(eEOC.gov\)](#)
- [Filing A Charge of Discrimination | U.S. Equal Employment Opportunity Commission \(eEOC.gov\)](#)
- [What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws | U.S. Equal Employment Opportunity Commission \(eEOC.gov\)](#) (Section L particularly discusses religious objections to vaccine mandates)
- [National Origin Discrimination | U.S. Equal Employment Opportunity Commission \(eEOC.gov\)](#)

Other Resources

- [The State of Antisemitism in America 2021 | AJC](#)
- [The ADL-Hillel Campus Antisemitism Survey: 2021](#)
- [The Louis D. Brandeis Center, Anti-Semitism @ College, ICC Print BrandeisDeck 08312021-1 \(brandeiscenter.com\)](#)

Appendix



EEOC Cases Involving Antisemitism

- [EEOC v. Center One, LLC \(filed W.D. Pa., 2019\)](#)
 - [EEOC Sues Center One for Religious Discrimination | U.S. Equal Employment Opportunity Commission](#)
- [EEOC v. XPO Last Mile, Inc. \(filed D. Md., 2017\)](#)
 - [XPO Last Mile Will Pay \\$94,541 To Settle EEOC Religious Discrimination Suit | U.S. Equal Employment Opportunity Commission](#)
- [EEOC v. One Communications Corp. \(filed E.D. Pa., 2009\)](#)
 - [One Communications Corp. Will Pay \\$66,000 to Settle EEOC Religious Harassment Lawsuit | U.S. Equal Employment Opportunity Commission](#)
- [EEOC v. Administrastaff, Inc. \(filed D. Md., 2009\)](#)
 - [Newsroom | U.S. Equal Employment Opportunity Commission \(eEOC.gov\)](#)