Know Your Rights
A STUDENT’S GUIDE TO PRO-ISRAEL ACTIVISM
Introduction

College is a place where students typically engage in a lot of political activity, and you may wish to engage by advocating for Israel on your campus. Your advocacy might include opposing the boycotts, divestment, and sanctions (“BDS”) movement against Israel, which has gained considerable momentum on college campuses at the same time that antisemitism on campuses has increased.

The State Department and the European Monitoring Center on Racism and Xenophobia define 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.” As this definition suggests, antisemitism may be expressed overtly through actual or threatened violence against Jews, destruction or vandalism of Jewish property, and derogatory remarks about Jews. But, it can also manifest itself more subtly under the guise of criticizing Israel.

Criticism of Israel can cross the line into expressions of antisemitism in numerous ways, sometimes subtle and sometimes quite overt. Common examples include statements that:

- demonize Israel, for example, by using symbols and images associated with classic antisemitism, such as caricatures, to characterize Israel or Israelis or by comparing Israel or Israelis to Nazi Germany;
- blame all Jewish persons for Israeli policies with which the speaker disagrees;
● complain about allegedly undue Jewish influence over American foreign policy;

● condemn Israel’s actions while ignoring or praising terrorist acts taken by others; or

● deny Israel’s right to exist.

See the Appendix for more information on what constitutes antisemitism.

As you read through this pamphlet, remember that not all criticism of Israel or anti-Israel activity is antisemitic. Discussion and criticism of Israel and its policies is a legitimate part of civil discourse and should be encouraged—as should discussion of all nations, cultures, and societies. But that does not mean that you should ignore antisemitism when it comes cloaked in anti-Israel rhetoric. That said, there are times when it is better to respond to anti-Israel rhetoric that is also antisemitic on the merits rather than pointing out the antisemitic nature of the comments. See page 13 of this pamphlet for three different ways students at Vassar College, Fordham University, and Dartmouth College responded to the antisemitic speech of Rutgers Associate Professor Jasbir K. Puar that was cloaked in anti-Israel rhetoric.

This pamphlet is designed to provide you with a broad overview of your rights and obligations to others when combating antisemitism or advocating for Israel on your college campus. It is not intended to provide you with any legal advice on specific cases or occurrences on your college campus. This pamphlet contains examples of cases that will give you an idea of how your rights may play out in life or in a courtroom. As you read these cases, keep in mind that these cases are just examples taken from across the country. The law applicable to the same situation could be different in your state, and so, the outcome of a similar case in your state could be quite different. If you think your rights may have been violated or that you may have violated someone else’s rights, you should obtain legal advice from an attorney.
The following organizations have additional resources to assist you in protecting your rights on campus and advocating for Israel.

1. The local Hillel on your college campus.

2. American Jewish Committee (AJC). For more information visit AJC.org. If you think your rights have been violated, email Marc Stern at sternm@ajc.org or campus@ajc.org.

3. The Israel on Campus Coalition has many different resources for strategizing about how to respond to BDS movements on your campus, including providing strategic consulting. For more information, visit israelcc.org.
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What Rights and Obligations Do You Have on Campus?

As a student on a college campus, your rights include:

- the right to express your views and hear the views of others on campus
- the right to be treated the same as other students
- the right to associate with other students
- the right to physical security
- the right to academic freedom
- the right not to be defamed
- the right to be free from discriminatory harassment
You also have an important obligation to respect the rights of other individuals, particularly in according them the same rights.

The parameters of your rights and obligations as a student on a college campus are derived from a variety of sources, including:

**federal level:** the United States Constitution and federal laws and regulations.

**state level:** the constitution and laws of the state where your college or university is located.

**school level:** your college’s student handbook, mission statement, code of conduct, disciplinary procedures, or other defined policies, which are important to help you understand not only your rights, but also your obligations, as a student at your school.
Right to Express Your Views and Hear the Views of Others

The First Amendment to the United States Constitution protects your right to express your beliefs, thoughts, ideas, and emotions about different issues, including the BDS movement and Israel, and your right to hear what others people have to say about those issues from government interference.

Accordingly, your public school, generally, cannot prevent speech that is otherwise protected simply because the message causes discomfort, fear, or even anger among audience members. The audience does not have a right to drown out a speaker with heckling or to engage in disruptive activities, such as rushing the stage, because of disagreement with a speaker’s message. If the audience reacts to the speech in a disruptive manner, your school must generally take action against disruptive audience members, but it must allow the speech to continue unless violence is imminent and unavoidable. But remember, speech that falls within the category of discriminatory harassment is not protected. For more information on what constitutes discriminatory harassment, see our discussion on page 19.

**THE FIRST AMENDMENT PROTECTS MANY FORMS OF EXPRESSION, INCLUDING:**

1) **oral and written speech**

2) “**symbolic speech**”

3) **expressive conduct**, such as wearing a t-shirt with a message, performing street theatre, marching, holding a banner at a protest, and displaying or even mutilating the U.S. flag
THE FIRST AMENDMENT DOES NOT PROTECT:

incitement or “fighting words”: speech that is intended, and likely, to provoke others immediately to commit violent acts or incite them to violent acts.

true threats: speech that a reasonable person would perceive to be communicating a serious intent to cause physical harm (usually to an identified individual or group).

obscenity: speech that appeals to, depicts or describes sexual conduct in an obviously offensive manner, and lacks serious literary, artistic, political, or scientific value.

defamation: speech that communicates false information about another person that harms the person’s reputation.

discriminatory harassment: unwelcome speech or conduct directed at a specific protected person that is objectively unreasonable and sufficiently severe or pervasive to create an intimidating, hostile, or offensive environment for academic pursuits, employment, or participation in university-sponsored activities.

PERMISSIBLE RESTRICTIONS ON PROTECTED FORMS OF EXPRESSION

Although the protections of the First Amendment are quite broad, your school has some leeway to restrict even protected speech. The First Amendment allows reasonable restrictions on the time, place, and manner of your speech in order to avoid disruptions and protect the rights of speakers and those who want to listen.
PLACE RESTRICTIONS

These regulate where you may express yourself. For example, your school may prohibit you from holding a protest in the library or in a location that blocks entry to or exit from buildings. The venue you choose for your expression will also impact the limitations your school may place on your speech.

- Restrictions on speech are most permissible in places that have traditionally been closed to free public expression, such as courthouses, jails, and government offices.

- Speech may also be restricted to certain types of speakers or subjects in places that have been opened to free expression for a designated purpose. For example, student center meeting rooms may be restricted in their use to registered student groups.

- Restrictions on speech are least permissible in places with long traditions of being open to free public expression, such as public streets, sidewalks, and parks.

TIME RESTRICTIONS

These regulate when you may express yourself. For example, your school may prohibit you from holding a protest in the middle of class.
MANNER RESTRICTIONS

These regulate how you may express yourself. For example, your school may require that you limit the sound generated by loudspeakers or that you confine speech to an informational table. Your school may also require that you obtain a permit, but must issue such permits without regard to the content and viewpoint of the speech and must make permits available within a reasonable time.

EXAMPLES OF PROPER RESTRICTIONS

Restrictions that prevent:

1. obstruction of vehicular or pedestrian traffic

2. interference with the normal functions of the school or the rights of others to effectively use school facilities and property, such as excessive noise levels or blocking doorways.

NEUTRAL APPLICATIONS OF POLICIES

Your school must apply its policies neutrally to all similarly situated persons. This obligation means that your school must give you equal access to the opportunities and benefits that it provides and treat you the same as other students on campus who have engaged in similar speech. Thus, your school generally cannot restrict your speech based on the viewpoints you express in support of Israel or against BDS.
ACCESS TO FACILITIES AND FUNDING

Your school may restrict access to facilities, funding, and other benefits to curricular-related groups or registered student groups. However, public schools may not restrict access to facilities, funding, or other benefits based on viewpoint expressed by the student group. So, for example, if your school permits a registered student group that is anti-Israel or pro-BDS to use its facilities for a meeting but refuses to allow a registered student group that is pro-Israel or anti-BDS to use those same facilities for a meeting, your school may have violated the First Amendment.

MEMBERS OF THE CAMPUS COMMUNITY VS. “OUTSIDERS”

Your school may apply different standards to requests for use of its facilities based on the requestor’s affiliation with the school. This means that your school may allow student groups to use its facilities for meetings, but deny requests for access by external vendors, activists, and interest groups.
The Right to Associate With Others

Your right to express a particular viewpoint includes the right to associate with others who share that view. This means that you have the right to join together with other students to form a pro-Israel student group that advocates for Israel and against BDS on campus.

COURT CASE

Christian Legal Society Chapter of the University of California, Hastings College of the Law v. Martinez

The Christian Legal Society challenged a policy at Hastings College of the Law that all student groups must have an all-comers policy (i.e., allow any student to participate, become a member, or seek leadership positions, regardless of her status or beliefs) to receive the benefits of recognition by the school, including the use of school funds, facilities, and channels of communication. It claimed that this policy impaired its First Amendment rights to free speech, expressive association, and free exercise of religion by requiring it to accept members who do not share its core beliefs about religion and sexual orientation. The Supreme Court ruled that the school’s all-comers policy was a reasonable, viewpoint-neutral condition on access to the student-organization forum in light of the purposes of the restriction and the availability of substantial alternative channels for unrecognized student groups to meet and communicate their views. Thus, a public university may condition its official recognition of a student group—and the attendant use of school funds and facilities—on the organization’s agreement to open eligibility for membership and leadership to all students, provided that alternative channels remain available for unrecognized student groups to meet and communicate their views.
MANDATORY STUDENT ACTIVITY FEES

Your school may require students to pay mandatory student activity fees that are distributed to registered student groups. Groups with views that some students may find offensive are entitled to receive funding as long as they follow the school’s reasonable, viewpoint-neutral policies applicable to all registered student groups. You do not have the right to opt-out of paying mandatory student activity fees because you object to certain groups that receive funding.

“ALL-COMERS” POLICIES

Your school cannot force student groups to open up membership to all students, but it may condition access to school facilities, funding, and other benefits provided to registered student groups on the group adopting an “all-comers” policy or agreeing to open membership eligibility and leadership roles to all students regardless of their status or views.
Right to Academic Freedom

Professors have the right to advocate controversial ideas within the educational contexts of teaching, learning, and research both inside and outside the classroom. It is assumed that students would have similar rights to academic freedom, however, it is hard to find legal authority that articulates these rights for students.

COURSE CONTENT AND CLASSROOM TEACHING METHODS

In general, professors have the right to choose the content of their courses and to use the teaching methods they believe will be effective. As a student, you do not have the right to insist that a class be viewpoint-neutral. In fact, your professor may even ask you to write papers expressing particular viewpoints with which you disagree as long as there is a legitimate pedagogical purpose. But, if a professor is teaching outside the scope of the course (for instance, if your math professor is repeatedly lecturing about the Arab-Israeli conflict), you may appeal to your school administration. Keep in mind two important points, however. First, professors are generally given significant leeway by the administration and their colleagues. Second, you should never be rude to any professors or the administration as it will not get you far.

GRADING RETRIBUTION

You have the right to respectfully disagree with viewpoints expressed in your classes and to reserve judgment about matters of opinion. In general, professors should evaluate you solely on an academic basis and not on the basis of your personal opinions or conduct that is separate from the course curriculum. If you are concerned that your professor
has unfairly lowered or will unfairly lower your grade because you challenge antisemitic speech or express support for Israel, you should keep a written record of your concerns and any correspondence with the professor. You may also want to speak with your school administration or a guidance counselor about your concerns and learn what options within the school may be available to you. It is important to keep in mind that professors are generally given significant latitude to assign grades and assess students, and your options may be limited unless there is clear evidence of misconduct.
The First Amendment generally gives you the right to make a video recording of anything that is in plain view when you are in a public place. It does not, however, always give you the right to make an audio recording of what people say. Many states have laws prohibiting the recording of private conversations – including conversations in public spaces – without the consent of all parties to the conversation. Many public and private universities also have policies that regulate video and audio recording on campus. Similar to other protected speech, your right to make a video recording in public places is subject to reasonable time, place, and manner restrictions.

To ensure you are complying with all laws and policies, be sure to consult the laws in the state where your university is located and your school’s policies before making any video or audio recordings of lectures or presentations by professors or outside speakers at your school.

Also, keep in mind that even when you are permitted to make a video or audio recording without the consent of all parties, you may not be able to publicly distribute the recording you made because the presentation or speech you recorded may be intellectual property that is protected under copyright laws.

In order to avoid violating state law, university policy, or copyright law, the best course of action is always to obtain consent before making a video or audio recording of any lecture or presentation by a professor or outside speaker. If some urgent reason requires that you make a recording without obtaining the consent of the speaker, you should first consult a lawyer.
THREE DIFFERENT RESPONSES TO ANTISEMITISM CLOAKED IN ANTI-ISRAEL RHETORIC

Rutgers Associate Professor Jasbir K. Puar was invited to speak at Vassar College, Fordham University, and Dartmouth College about Israel. On February 3, 2016, she gave a lecture at Vassar College entitled “Inhumanist Politics: How Palestine Matters.” During her lecture, Professor Puar stated that Israel: is “harvesting Palestinian organs for scientific research”; seeks “perfection of drone technology as a rationalization for the slaughter of Gazans”; and employs “maiming as a deliberate biopolitical tactic in the occupation of Palestine.” Her speech clearly met many of the U.S. State Department’s criteria for antisemitism. But, decrying the speech as antisemitic would not expose the falsity of these misleading lies. So, students and alumni responded by writing letters and Op-Eds that refuted each statement with facts. Ms. Paur’s speech at Vassar and the response attracted national attention with an article published in The Wall Street Journal on February 17, 2016 entitled “Majoring in Antisemitism at Vassar.”

Ms. Puar was scheduled to give a similar lecture at Fordham University entitled “The biopolitics of debility in Gaza” on February 25, 2016. Before the speech occurred, students and faculty lobbied school administrators for permission to record the lecture, so they could expose Ms. Puar’s mischaracterizations of fact and unsupported demonization of Israel. School administrators granted the request and informed Ms. Puar that she could only speak if she was recorded and the recording was made public. Ms. Puar refused to appear at Fordham University and canceled the event.

At Dartmouth College, students did not seek permission in advance to record Ms. Puar’s lecture at their school on April 30, 2016 and were denied permission on the day of the speech. A transcript of her remarks, however, was eventually made public. During her lecture, Ms. Puar stated that Israel seeks “the perfection of drone technology as a sublimated
rationale for killing Gazan civilians” and employs “maiming as a deliberate biopolitical tactic on the part of Israel in the occupation of Palestine.” Again, students and alumni did not simply decry her presentation as antisemitic. Rather, they responded effectively with a point-by-point refutation of Ms. Puar’s false and misleading accusations.

**Court Case**

**O’Brien v. Welty**

A student at California State University, Fresno, decided to confront two professors after reading a poem published in a campus magazine that he found offensive. The student went to each professor’s office with a video camera and attempted to question the professor about the poem. When the student persisted after being asked to leave, the professors alerted campus police and filed complaints against the student. The university held disciplinary proceedings, in which it was found that the student had violated the Student Conduct Code by “harassing” and “intimidating” the professors and the student was disciplined.

The student sued the professors and administrators alleging that the disciplinary actions taken against him violated his constitutional rights. The court held that the school’s harassment policy did not violate the First Amendment and the university could discipline the student for his conduct. The court explained that professors do not generally expect to be confronted in their personal offices without warning by a student asking hostile questions and videotaping them. And, if a student refuses to leave the professor’s office after being asked to do so, the professor may reasonably become concerned for his or her safety.
Right to Physical Security

You have the right to be free from true threats of physical harm and uninvited physical contact that is harmful or offensive. Similarly, you have an obligation to avoid making such threats, even when you are provoked. State laws and school policies generally prohibit such threats and the First Amendment does not protect them.

A statement is considered a “true threat” when a reasonable person would foresee that the statement would be interpreted by those to whom it was made as a serious expression of intent to cause physical harm.

Generally, a statement made in the context of a political speech that is directed at a group is likely to be considered a rhetorical device for persuasion and is protected speech. By contrast, a statement that conveys an actual plan to carry out violence against a specific individual is likely to be considered a serious expression of intent to cause physical harm.

**Court Case**

**NAACP v. Claiborne Hardware Company**

In a speech encouraging a boycott of all white-owned businesses in Claiborne County, Charles Evers stated to several hundred people, “If we catch any of you going into any of them racist stores, we’re gonna break your damn neck.” The Supreme Court held that Evers’s speech, even though it advocated the use of force or violence, was constitutionally protected by the First Amendment. Crucial to the Court’s decision seems to have been the fact that this speech was not followed by acts of violence and there was no other evidence of Evers authorizing, ratifying, or directing acts of violence.
United States v. Kelner

Russell Kelner, a member of the Jewish Defense League ("JDL"), was criminally convicted for statements he made about assassinating Yasser Arafat during a JDL press conference. During the conference Kelner stated,

We have people who have been trained and who are out now and who intend to make sure that Arafat and his lieutenants do not leave this country alive . . . We are planning to assassinate Mr. Arafat . . . Everything is planned in detail.

When he made the statements, Kelner was wearing military fatigues and was sitting behind a desk with a .38 caliber “police special” in front of him. In appealing his conviction, Kelner argued that his statements were protected under the First Amendment because he was communicating his opinion that “justice” and “equal rights” demanded that Arafat be treated as a murderer in view of assorted PLO crimes on innocent Israeli civilians. He also contended that his statements were especially deserving of constitutional protection because they were broadcast to the general public and related to the “free trade in ideas.” In rejecting these arguments, the court noted that Kelner’s statements were an unconditional and unambiguous threat directed at specific targets and clearly not made in jest.

State laws and school policies also generally prohibit uninvited physical contact, which the First Amendment does not protect either. Uninvited contact may be prohibited even if it does not cause physical harm or is only with something a person is holding. Examples of actions that would be prohibited include spitting at someone or grabbing a poster that the person is holding.
Right Not to Be Defamed

You are entitled to not have others make false statements about you to third parties that harm your reputation, business, or employment. You also have an obligation not to make similarly false statements about others. This right not to be defamed may be enforced through a civil lawsuit seeking to recover monetary damages. However, in order to protect freedom of speech, the requirements to prove defamation are more rigorous when a statement is made about a public official or figure or a matter of public concern.

FALSE STATEMENT OF FACT

To be considered defamatory, a statement must be an assertion of fact that is capable of being proven false. The First Amendment protects opinions and exaggerations, even when they are hurtful or inflammatory. For instance, statements in a spoof or joke edition of a school newspaper are generally not defamatory because they are not deemed to be assertions of fact.

HARM TO REPUTATION, BUSINESS, OR EMPLOYMENT OPPORTUNITIES

To be defamatory, the false statement must harm the reputation of the person about whom it is made or deter others from associating with that person. In general, a statement that merely annoys or embarrasses the person is not defamatory. Rather, the statement must expose the person to hatred, contempt, or ridicule in the community. For instance, a statement in an accreditation report that falsely describes a professor as “academically unqualified” would be defamatory if it affects the professor’s job prospects.
Public Officials, Public Figures, Matters of Public Concern, and Public Controversies

Public officials or public figures alleging defamation must show that the person making the statement knew that it was false or demonstrated a reckless disregard for whether the statement was true or false.

A “PUBLIC OFFICIAL”

is a person who is responsible for public affairs or governance. Many public university leaders, such as presidents, deans, directors of financial aid, and campus police chiefs, are considered public officials. Professors may also be considered public officials with respect to their speech when they are acting in an administrative capacity with responsibility for public affairs or governance.

A “PUBLIC FIGURE”

is a person who has pervasive power or influence. Private individuals, including students, can become public figures by inviting attention to their views, becoming involved in ongoing controversies, or maintaining regular access to the media. For example, protesters who invite public attention to their views may be considered public figures.

Whether a professor is considered a private individual or a public figure will depend on the false statement at issue. If the allegedly false statement concerns a topic on which a professor regularly researches, writes, or opines, the professor is likely a public figure. However, when the false statement relates to an issue outside of a professor’s academic roles or public advocacy, the professor is likely to be considered a private figure.
Right to be Free from Discriminatory Harassment

Pro-BDS or anti-Israel groups may not advocate their perspectives and viewpoints on your college campus in a manner that is considered discriminatory harassment under Title VI of the Civil Rights Act of 1964. Title VI is a federal law that prohibits discrimination and harassment on the basis of race, color, or national origin at colleges and universities that receive federal funding. While Title VI does not list religion as a protected group, the U.S. Department of Education’s Office for Civil Rights has opined that Title VI protects students who are discriminated against or harassed based on their actual or perceived shared ancestry or ethnic identity as Jews.

To rise to the level of prohibited harassment under Title VI, the conduct must be so severe, persistent, pervasive, or objectively offensive that it interferes with or limits your ability to participate in or benefit from college and university programs or opportunities. The prohibited harassment cannot be premised on the mere expression of views, words, symbols, or thoughts with which some may disagree or find inflammatory. In addition, your school must act with deliberate indifference toward the harassing conduct—a difficult standard to prove. Of course, if you fail to report incidents of discriminatory harassment to school officials, then your school cannot be considered to have acted with deliberate indifference to the conduct.

If you believe that there have been incidents of discriminatory harassment at your school, contact your Hillel or AJC, both of which will have the resources to assist you in responding to the incidents and reporting to the appropriate school officials.
Felber v. Yudof

Two Jewish students sued U.C. Berkeley and certain administrators under Title VI. They stated that members of Students for Justice in Palestine (“SJP”) and the Muslim Student Association (“MSA”) had harassed and intimidated them and that the school had tolerated the development of a dangerous antisemitic climate on campus. To prove their case, they listed the school’s response to harassing incidents over a sixteen year period, including:

- The intentional ramming of a shopping cart into one of the students while she was protesting Apartheid Week, an annual event on campus co-sponsored by SJP and MSA where mock checkpoints are setup and students dressed as soldiers with simulated assault weapons asked passersby whether they are Jewish;
- A rally supporting Hamas, where students carried signs of the Israeli flag with a swastika in the middle and some expressly volunteered to serve as future suicide bombers, and a demonstrator spit on a Jewish observer;
- An assault on a Chabad member near the Chabad house,
- Breaking the Chabad house window and painting derogatory statement on the wall,
- A demonstration featuring mock “body bags” of Palestinians claimed to have been murdered by the Israeli army,
- A SJP-sponsored “die-in,” in which 30–40 protestors lay on the ground in the main plaza, obstructing traffic and signs accusing Israel of starting another Holocaust, and equated Israelis to Nazis and
- Blocking and trying to destroy signs of Jewish students attempting to conduct peaceful counter-protests to SJP demonstrators.

The court threw the case out because it found that many of the incidents involved pure political speech and expressive conduct in a public setting, regarding matters of public concern, which the First Amendment protects. Most significantly, the two students who had sued were not personally present during many of the incidents and had failed to prove that they had been denied access to the University’s educational services in any meaningful sense. As for the shopping cart incident specifically, the court found that Title VI had not been violated because the incident occurred while the victim was exercising her free speech rights in a public space, rather than in the context of her educational pursuits.
Avoiding Criminal Trouble when Exercising Your Rights

When advocating for Israel, you should be familiar with all the laws and policies that may impact your advocacy, including school policies or codes of conduct. Being aware of these laws and policies will allow you to avoid breaking any laws. It is crucial, however, that you comply with requests made by law enforcement officers and campus security even if you believe that you are complying with all relevant laws, policies, and regulations. No matter how provoked, DO NOT ARGUE with the law enforcement officer during the interaction. You will always be better served if you wait to address any violations of your rights after the controversy rather than during. Your failure to comply with a law enforcement officer’s requests could get you arrested or worse.

A student at an Ivy League university refused to leave a public sidewalk that police officers were trying to clear of pedestrians and argued with the police officer asking him to keep moving. As a result, the police officer sprayed the student with mace and arrested him for refusing to leave the street. The student ended up spending a few hours in jail that night, had to call the dean of his school to bail him out. He also ended up with a police record all because he refused to follow the instructions that the officer gave him.

Common charges that are made against protesters and advocates include disorderly conduct, disturbing the peace, trespassing, resisting arrest, obstructing justice, and loitering.

Another possible crime you could be charged with is a conspiracy, which is the crime of agreeing to engage in illegal conduct with at least one other individual. A conspiracy does not require actually completing the illegal conduct. Rather, an act towards accomplishing the illegal conduct is enough to show a conspiracy occurred.
Many states laws also prohibit disrupting a public meeting. But, these laws do not prohibit asking tough questions at an open meeting.

ENCOUNTERING LAW ENFORCEMENT

ANSWERING LAW ENFORCEMENT QUESTIONS OR SHOWING IDENTIFICATION

During your advocacy for Israel, you may encounter law enforcement officers, who could try to ask you questions. You do not have to answer any questions and can politely ask if you are free to go. If the answer is yes, then walk away calmly. If the officer says that you are not under

People of the State of California v. Sayeed

The University of California at Irvine invited Michael Oren, the Israeli Ambassador to the United States, to present at an event on campus. The Muslim Student Union (“MSU”) planned a coordinated effort for volunteers to disrupt the Ambassador’s speech. This plan was documented in the emails sent prior to and after the event. Beginning about 37 seconds into the Ambassador’s speech, volunteers interrupted the Ambassador by standing up and shouting a prewritten anti-Israel or anti-Ambassador statement, which was followed by cheering and clapping by planted audience members.

After each disruption, volunteers were removed and detained by the police. By the time the entire group had left the ballroom, the Ambassador had about 12 minutes to speak before he had to attend another engagement.

The students who helped organize the disruption of the Ambassador’s speech were prosecuted and convicted by a jury for conspiring to violate a California criminal law prohibiting the disruption of a public meeting or assembly. In upholding their convictions, the court noted that the right of free speech “does not embrace a right to snuff out the free speech of others.”
arrest, but you are not free to go, then you are being detained. Law enforcement officers are allowed to pat down the outside of your clothing if they have an objective reason to suspect that you might be armed and dangerous. Many, but not all, states have “stop and identify” statutes that allow police officers to ask you for identification when they have “reasonable suspicion” that you are involved in illegal activity. Remember, you should always follow any instructions an officer gives you. The time to question the legality of the officer’s requests is NOT during the interaction: You will have the opportunity to address any violations of your rights afterwards with the officer’s superior or through the legal system.

**Klaucke v. Daly**

When encountering a law enforcement officer, avoid any hostile or argumentative attitude. For example, do not argue with a law enforcement officer if asked to produce identification because it may cause the officer to become suspicious.

Jonathan Klaucke, a twenty-one year old student at the University of Massachusetts at Amherst, was walking in the street visibly carrying alcohol. Although Klaucke was old enough to purchase the alcohol, his youthful face caused an officer to ask him for identification. Klaucke refused and argued with the officer for a few minutes. After being threatened with arrest, Klaucke finally handed over his license. Because of Klaucke’s hostility, the officer took his license and checked for outstanding warrants, which he assumed was the reason for Klaucke’s refusal to produce his identification. Luckily, Klaucke’s record was clean, but the incident could have easily escalated into an arrest or worse.
STUDENT RIGHTS WHEN UNDER ARREST

Law enforcement officers may arrest you without a warrant if they have “probable cause” to believe that you have committed a crime. For example, an officer who witnesses an illegal sit-in on school grounds could arrest participants for trespassing. If you are arrested, you have the right to remain silent until you speak with an attorney. Even if an officer suggests that it might be to your advantage to speak and tell the truth, it is often best to remain silent as anything you say in the exchange can be used against you later.

WHEN STUDENTS MUST CONSENT TO A SEARCH

Law enforcement officers may ask you to consent to a search. You are not required to consent and can politely decline, whether or not you have done anything illegal. However, in certain unusual circumstances, the officer may conduct a search without your consent.
Practical Tips for Protecting Your Rights on Campus

DEVELOPING YOUR NETWORK

One of the most important lessons you will begin to learn in your adult life is that the relationships you develop are one of the most valuable tools in almost every aspect of your life. So, it is crucial to develop your relationships with administrators, deans, professors, student leaders, university alums, donors, and trustees of your university or college from your first day on campus. Not only will these relationships serve you in achieving your academic and career goals, but they could also become useful in your Israel advocacy. These individuals will serve as a great resource in protecting your rights on campus by advocating on your behalf and will also serve as mentors to you. There are a great many ways to approach developing these relationships and friendships and no one way is the “right” way. Below are some general tips to help get you started.

TIPS TO DEVELOP YOUR NETWORK

You may also want to organize an event for your student group or dorm and ask your professor or administrative personnel to speak at the event about a topic that is of interest to them. Remember both your professor’s and school’s administrative personnel have chosen to work at an academic institution because they want to teach students and convey their ideas, so they will be willing to speak with you individually or speak at an organized event on campus.
PROFESSORS

Most of your professors will have office hours that they have set aside for students. Visit your professors during those times to discuss your course materials or seek their advice on your academic career. These conversations are a great way to begin developing a rapport with your professors. However, it is important that you act respectfully towards your professors and that you comply if they are unwilling to continue a conversation and ask you to leave.

You may also want to contact the Academic Engagement Network (“AEN”) to ask about professors on your campus who have identified themselves as pro-Israel. These professors have already indicated their interest in mentoring students and combating the BDS movement in academia.

DEANS AND ADMINISTRATIVE PERSONNEL

While the deans or other administrative personnel at your school may not have official office hours, you can always ask to make an appointment to speak with them. At some colleges or universities, deans and other administrative personnel conduct town hall meetings or speak at events on campus. Attend these events and approach them afterwards to speak to them about what they discussed or ask them to grab a cup of coffee at another time.

CAMPUS STUDENT LEADERS

Campus student leaders, in particular, can be effective advocates against the administration should a problem arise. Identify the influential student leaders on your campus, particularly those who are on the student government or student activities board, with whom you can network. Begin to develop relationships with these student campus leaders by
attending meetings of the student groups that they lead. You can also ask them to grab a cup of coffee or to attend an event on campus together that you know will be of interest to them. Through these activities you can build a genuine friendship with these influential leaders on your campus.

MEDIA

Reporters and editors of your campus newspaper or alumni newsletters are also useful additions for your network, particularly for your public relations strategy. Approach networking with these individuals as you would other peers on campus—ask them to grab a meal together or invite them to attend an event of mutual interest together.

ALUMNI, DONORS AND TRUSTEES

Other great resources include university donors, alumni, and trustees. These individuals will generally care about your school. You also share certain common ground with these individuals and can connect with them through similar experiences you may have had at your school. Maybe you are a member of a student group they founded, lived in the same dorm as they did as students, or were taught by the same professor. Most alumni or career services offices on university and college campuses maintain a list of alumni who are willing to speak with students about their experiences or serve as mentors. Your student groups may even have alumni lists of former members of the group. Reach out to these individuals – arrange to have a call or to get a cup of coffee with them.

Getting a cup of coffee is a great way to connect with anyone with whom you wish to network or to begin developing a relationship. During your coffee meeting, you may want to speak to the person about your academic or career goals, your experience on campus, seek their advice on an idea you have, or their thoughts on life in general.
DEVELOPING PUBLIC RELATIONS STRATEGY

Before you engage in public action, develop a strong public relations strategy and be prepared to control the story and your message through media coverage of your demonstration or protest. It is usually best to designate one point person to serve as the organization’s spokesperson and to develop talking points in anticipation of media coverage of a planned demonstration.

Groups, such as AJC, may offer valuable advice regarding the appropriate approach to take in a specific situation when a problem arises on your campus. However, where necessary, it is almost always best if formal approach to school administrators comes from students, faculty, alumni, and donors.

THE POWER OF NUMBERS

Generally, your ability to sway the school’s administration is much greater as part of a group, rather than as an individual student. Thus, if possible, in addition to reaching out individually to develop these relationships, you should also try to develop these relationships through your student groups on your campus, such as Hillel.
When your rights are violated, litigation will generally be one of several options for addressing that violation. Nine out of ten times, it may be better to pursue another option rather than litigation to rectify the situation because the cons of filing a lawsuit may outweigh the benefits. In some cases, however, litigation is the only possible solution. You should not be afraid of pursuing litigation to protect your rights, but you should also be aware of, and consider, some of the negatives of pursuing that course of action.

**PROS OF PURSUING LITIGATION**
The clear benefits of bringing a lawsuit are:

- it may help foster change on your campus or protect your rights as a student;
- it will set a precedent that will govern the rights of students on other college campuses;
- it may increase publicity for your cause.

Before filing a lawsuit, however, keep in mind that many of these benefits can be achieved using methods other than litigation.
CONS OF PURSuing LITIGATION

COSTS

Litigation can be quite expensive, both monetarily and timewise. If you decide to pursue litigation, you will need to hire a lawyer, pay the court fees for filing the action, pay for travel, and much more. There is also a huge investment of time required in helping your lawyer understand the facts that led you to either bring the lawsuit or to be sued. You also must appear to testify either in court or at a deposition, where the other side’s attorney gets to ask you questions about the incident at issue. Your testimony in court or at the deposition could last anywhere from a few hours to several days and will require hours of preparation time with your lawyer. If you have the right case, an organization, such as AJC, may be willing to pay the costs of the lawsuit, to the extent permitted under the law.

UNINTENDED OUTCOME

Bringing a lawsuit may not always result in your desired outcome. In fact, there is even the potential that your lawsuit will establish bad law that remains part of the American jurisprudence, potentially forever. In addition, bringing a lawsuit may suggest that Israel cannot win in the battle of ideas.

DURATION

If your lawsuit is not settled shortly after being filed, the litigation could last years—possibly after you have graduated. Thus, even a good outcome in the litigation may be irrelevant for you personally.
COUNTER LAWSUITS AND ANTI-SLAPP STATUTES

Initiating a lawsuit may cause the party you sue to assert his or her own claims against you putting you on the defensive. Additionally, many states have enacted what are known as anti-SLAPP statutes, which stands for “Strategic Lawsuits Against Public Participation.” These statutes are intended to prevent individuals from bringing weak civil lawsuits to stop others from expressing their viewpoints by imposing substantial fines and penalties on individuals who bring such actions. If your state has implemented an anti-SLAPP statute, the party you sue could try to get the lawsuit thrown out on the ground that the lawsuit is based on the person’s engagement in speech of public concern.

**Davis v. Cox**

Members of a Washington State food co-op filed a lawsuit against current and former directors of the co-op to permanently enjoin the board from continuing a boycott of Israeli products and divesting from Israeli companies. The co-op’s board of directors was successful in getting the lawsuit dismissed under the state’s anti-SLAPP statute and won an award of over $200,000. On appeal, the Supreme Court of Washington reversed the lower court’s order finding that the co-op members would have been successful at trial. It held that while the anti-SLAPP laws were enacted to prevent frivolous lawsuits that typically attempt to quash First Amendment rights, the use of the statute here essentially cut-off the co-op member’s right to bring a lawsuit.

While the co-op members here eventually overcame the anti-SLAPP suit in this case, the lack of success following multiple appeals could result in a huge legal bill and an anti-SLAPP penalty to pay.
DOCUMENTING INCIDENTS

It is crucial that you keep contemporaneous records of any incidents that you think may be the subject of a lawsuit or disciplinary action. Document what was said or done and by who. Note any witnesses to the incident and keep track of your communications with the administrators on your college or university campus about the incidents. You should save copies of any records that might be helpful, including: your emails, any letters exchanged, tape or video recordings, newspaper articles, pictures, or notes.
APPENDIX:

UNDERSTANDING ANTISEMITISM

CONTEMPORARY EXAMPLES OF ANTISEMITISM IDENTIFIED BY THE STATE DEPARTMENT:

• Calling for, aiding, or justifying the killing or harming of Jews (often in the name of a radical ideology or an extremist view of religion).

• Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as a collective—especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government, or other societal institutions.

• 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 interest of their own nations.

ANTISEMITISM RELATIVE TO ISRAEL

Antisemitism may also manifest itself with regard to the State of Israel. Criticism of Israel has to be considered in the overall context, and it is imperative to understand that criticism that is similar to that leveled against another country is not antisemitic.
EXAMPLES OF ANTISEMITIC BEHAVIOR RELATIVE TO ISRAEL AS IDENTIFIED BY THE STATE DEPARTMENT:

DEMONIZING ISRAEL

• Characterizing Israel or Israelis using symbols and images associated with classic antisemitism.

• Drawing comparisons of contemporary Israeli policy to that of the Nazis.

• Blaming Israel for all inter-religious or political tensions.

HOLDING ISRAEL TO A DOUBLE STANDARD

• Requiring Israel to behave in a manner not expected or demanded of any other democratic nation.

• Focusing on Israel only for peace or human rights investigations by multilateral organizations.

DELEGITIMIZING ISRAEL

• Denying only the Jewish people their right to self-determination, and denying Israel the right to exist.

The U.S. Commission on Civil Rights has found that anti-Israeli and anti-Zionist propaganda that is disseminated on many campuses include references to the medieval antisemitic blood libel of Jews slaughtering children for ritual purposes and stereotypes of Jews as greedy, aggressive, overly powerful, or conspiratorial.

In just the past year, there have been numerous reports of antisemitic
behavior on campuses that is linked with criticism of Israel. For example, a debate at Northwestern University about a resolution to boycott Israel spurred a series of threatening and antisemitic posts on social media disparaging Jewish students at the University of Chicago, Hillel, and other Jewish organizations on campus. At the University of California, Davis students chanted “Allahu Akbar” at Jewish students during a vote on a student government resolution to divest from Israel and companies that do business with Israel. Following the vote, swastikas were spray-painted on a Jewish fraternity house.
AJC’s mission is to enhance the well-being of the Jewish people and Israel, and to advance human rights and democratic values in the United States and around the world.

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