



LEGAL ACTION AGAINST  
**ANTISEMITISM**

February 15, 2024

Via Email: [OCR@ed.gov](mailto:OCR@ed.gov); [OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)

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## I. INTRODUCTION

The StandWithUs Center for Legal Justice (“SCLJ”), a non-profit membership organization with the mission of supporting Israel and fighting antisemitism through legal action, respectfully submits this letter of complaint pursuant to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq. (“Title VI”). This complaint alleges unlawful discrimination and harassment experienced by current and former Middlebury College (“Middlebury” or the “College”) students<sup>1</sup> as a result of their actual and perceived Jewish ethnicity and identity, as well as a series of incidents that have created a pervasively hostile antisemitic campus climate at Middlebury.

As discussed more fully below, despite ample notice,<sup>2</sup> **Middlebury’s administration has failed to remediate these issues and, to the contrary, has contributed to this climate through its inaction, refusal to enforce its own policies, dismissiveness toward Jewish students’ concerns, and lack of equal treatment of its Jewish students as compared with other minority groups on campus.**

As a result, Middlebury has deprived Jewish students of the ability to participate fully and equally in the educational opportunities available to other Middlebury students: at least one student has elected to graduate early to escape this pervasively hostile environment; another is considering transferring at the end of term; and we are aware of at least one student who already transferred because of the hostile climate on campus toward Jews. We have also been informed

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<sup>1</sup> SCLJ is in direct contact with students whose experiences of antisemitism are detailed herein and can facilitate interviews between the students and the Office for Civil Rights.

<sup>2</sup> In addition to notice given by students themselves, we note two letters previously sent by StandWithUs to Middlebury College President Laurie Patton, dated [May 16, 2021](#) and [October 19, 2023](#), detailing many of these same issues and calling for remedial action by the university. The university never responded to either letter.

that parents affiliated with Middlebury are posting on their Facebook group that they are purposely not sending their children to Middlebury because of the anti-Jewish climate.

Students also report to SCLJ a toxic climate on campus for other Jewish students, such that they feel compelled to hide their Jewish identities due to fear for their safety and a general perception that Middlebury's administration will not support or protect them from discriminatory conduct.

We urge your office to investigate thoroughly the hostile environment at Middlebury experienced by these students and others due to their Jewish ethnicity, actual or perceived. If your investigation concludes that Middlebury has indeed violated Title VI, we urge your administration to demand swift and concrete remedies, some of which are suggested below.

## II. MIDDLEBURY'S TITLE VI OBLIGATIONS

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color and national origin in programs and activities receiving federal financial assistance, including Middlebury. The Department of Education's Office of Civil Rights ("OCR") has [explained](#) that schools "may violate [Title VI] and the Department's implementing regulations when peer harassment based on race, color, [or] national origin . . . is sufficiently serious that it creates a hostile environment and such harassment is encouraged, tolerated, not adequately addressed, or ignored by school employees." The violation is, of course, all the more egregious if it is committed by school employees themselves and administrators fail adequately to respond. As the Department of Education's implementing regulations for Title VI expressly provide, it is prohibited for a Title VI recipient to, *inter alia*:

- (i) Deny an individual any service, financial aid, or other benefit provided under the program;
- (ii) Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;
- (iii) Subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program; or
- (iv) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program.<sup>3</sup>

Importantly, for purposes of the instant complaint, OCR has clarified that Jewish students are among those entitled to protection from the type of discrimination prohibited by Title VI, including harassment that creates a hostile environment, and, consequently, to have school administrators take remedial actions if and when such conduct occurs. Specifically, OCR [explained](#):

[G]roups that face discrimination on the basis of actual or perceived shared ancestry or ethnic characteristics may not be denied protection under Title VI on the ground that they also share a common faith. These principles apply not just to Jewish

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<sup>3</sup> 34 C.F.R. § 100.3(b).

students, but also to students from any discrete religious group that shares, or is perceived to share, ancestry or ethnic characteristics (e.g., Muslims or Sikhs). Thus, harassment against students who are members of any religious group triggers a school's Title VI responsibilities when the harassment is based on the group's actual or perceived shared ancestry or ethnic characteristics, rather than solely on its members' religious practices. A school also has responsibilities under Title VI when its students are harassed based on their actual or perceived citizenship or residency in a country whose residents share a dominant religion or a distinct religious identity.<sup>4</sup>

According to [OCR](#), “[h]arassing conduct [that violates Title VI] may take many forms, . . . does not have to include intent to harm, be directed at a specific target, or involve repeated incidents[, and] . . . creates a hostile environment when the conduct is sufficiently severe, pervasive, or persistent so as to interfere with or limit a student’s ability to participate in or benefit from the services, activities, or opportunities offered by a school.” Crucially, it is the responsibility of a school to proceed with immediate and appropriate action to “address[] harassment incidents about which it knows or reasonably should have known,” and, where discriminatory harassment has occurred, to “take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring.” Middlebury therefore has an obligation to address and redress the antisemitic incidents that occurred on its campus and the overall hostile climate that currently exists therein.

### **III. APPLICABLE DEFINITION OF “ANTISEMITISM”**

Executive Order 13899, the 2019 [Executive Order on Combating Anti-Semitism](#), requires agencies tasked with Title VI enforcement to utilize the International Holocaust Remembrance Alliance’s (IHRA) Working Definition of Antisemitism (“IHRA Definition”) to investigate potential discrimination involving antisemitism. OCR expressed its commitment to applying the IHRA definition on January 19, 2021, in a set of [questions and answers](#) it issued regarding the this executive order. And on January 4, 2023, Department of Education Assistant Secretary for Civil Rights Catherine Lhamon publicly reaffirmed OCR’s “commitment to complying with Executive Order 13899” in an email announcing the release of OCR’s new fact sheet on “Title VI Protection from Discrimination Based on Shared Ancestry or Ethnic Characteristics.” The continued relevance of the fact sheet and question and answer documents was further reiterated in OCR’s Dear Colleague letters dated [May 25, 2023](#) and [November 7, 2023](#) (which referred to both of those documents in their lists of Resources).

The IHRA Definition reads as follows:

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.

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<sup>4</sup> See also U.S. Dep’t of Education, Office for Civil Rights, Office of the Assistant Secretary, “Dear Colleague Letter,” Sep. 13, 2004, available at <https://www2.ed.gov/about/offices/list/ocr/religious-rights2004.html>.

Also included with the IHRA Definition and referenced in the Executive Order is a list of examples of contemporary behavior that could, taking into account overall context, constitute antisemitism, including demonization or dehumanization of Jews, denying the Jewish people their right to self-determination, applying double standards to Israel’s behavior (*i.e.*, behavior not expected or demanded of any other democratic nation), and drawing comparisons of contemporary Israeli policy to that of the Nazis.

As demonstrated below, Middlebury has failed to respond adequately or effectively to a pattern of incidents on its campus that, properly understood in context, appear to satisfy the IHRA Working Definition of Antisemitism. Such deliberate indifference and even complicity have had a detrimental impact on Middlebury’s Jewish student population, including the students who shared their experiences with SCLJ, that will only worsen if OCR does not hold the Middlebury administration accountable for its failure to remedy the hostile antisemitic environment that exists on its campus and require it to comply with its legal obligations under Title VI.

#### **IV. STATEMENT OF SUPPORTING FACTS**

Since the October 7, 2023, invasion of Israel—during which Hamas-led terrorists poured into Israel, slaughtered over 1,200 people, injured over 12,000 more, and abducted 240 into Gaza—hateful anti-Zionist and anti-Jewish groups and individuals have been emboldened on and around campuses across the country,<sup>5</sup> leading to increased harassment and threats of violence toward Jewish and Israeli students. Unfortunately, Middlebury is a leading example of a campus where hostility towards Jews and Israelis thrives and where the university administration not only deliberately ignores this reality but attempts to hinder Jewish students’ efforts to improve the hostile environment on campus.

The following account details numerous antisemitic incidents faced by Jewish students on Middlebury’s campus, as well as Middlebury administrators’ actions which permitted and exacerbated the problem. We respectfully request that OCR investigate these incidents and require Middlebury to take immediate action to remediate the pervasively hostile environment for Jews on Middlebury’s campus.

##### **A. The Middlebury administration displayed discriminatory and disparate treatment toward Jewish students seeking to host a campus vigil for the victims of Hamas terrorism.**

Setting the tone for a hostile and antisemitic campus climate, Middlebury, in its statement regarding the Hamas massacre on October 7, 2023, did not condemn the terror attacks committed against Israeli civilians. Rather, Middlebury issued a message to its students, faculty, and staff on [October 9th](#) stating that Middlebury is writing to “acknowledge the untold pain, suffering, and loss of life unfolding from the violence happening now in Israel and Palestine.” There was no mention of the actual terrorist acts that resulted in the largest number of Jewish people killed in a single day since the Holocaust and which prompted the statement in the first place. By

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<sup>5</sup> OCR’s own data bear out this alarming trend. According to OCR’s own [“List of Open Title VI Shared Ancestry Investigations.”](#) an unusually large number of Title VI investigations of schools for alleged discrimination involving shared ancestry were opened after October 7, 2023. A Department of Education spokesperson [reported](#) that, as of January 30, 2024, two-thirds of the complaints received since October 2023 related to allegations of antisemitism.

referencing “Israel and Palestine” in this context, apart from suggesting a moral equivalence between the barbaric rapes, murders, and beheadings committed by Hamas terrorists on the one hand and Israel’s legitimate military response in self-defense on the other, the statement implied that the genocidal attacks against Jews were only worthy of condemnation if that condemnation could be universalized to include others too.

**When Jewish students attempted to organize a vigil on October 11, 2023, in response to Hamas’ recent atrocities, Middlebury administrators immediately attempted to hamper their efforts.** Despite the burgeoning and apparent security threat to Jewish students on campus in the wake of the Hamas attacks and those students’ legitimate fear for their safety, Middlebury administrators repeatedly attempted to prevent and then to limit the Jewish students’ request for a police presence, citing concerns about upsetting other students and pushing to only have a single public safety officer attend, out of sight. It was only after several meetings during which Jewish students insisted—for their own safety—on a visible police presence despite the administrators’ objections, and only after the intervention of the local Chabad rabbi who contacted the police himself, that a small police presence attended the vigil. According to the Addison County Independent’s Middlebury police [log](#), “Police said *students* requested their presence” (emphasis added), not administrators.

**Then, rather than focus their energies on the physical safety of their Jewish students, Middlebury’s administrators instead directed those energies toward marginalizing and discriminating against those same students by asking them to hide their religious, ethnic and national identities in connection with the vigil.** One of the students involved in organizing the vigil reported that, in a meeting with Middlebury’s administration, Jewish and Israeli students were asked by administrators to not display any Israeli flags during the event and to remove the word “Jewish” from all literature for the event.

**In response to a proposed poster design from a Jewish student to advertise for the vigil, Middlebury’s Associate Vice President and Dean of Students, Derek Doucet, even attempted to change the scope of the event entirely so that it would not exclusively focus on Israeli or Jewish victims.** The proposed design (pictured in the Appendix herein) had a Jewish Star of David and called on readers to “Stand in Solidarity With the Jewish People.” It also stated, in relevant part, “This will be an opportunity to honor the innocent lives lost in the tragic events that have struck Israel in the past days.” In response, this administrator wrote to the Jewish student suggesting that the language, “stand in solidarity,” be removed entirely and to instead call the event a “Vigil for Lives Lost.” He further attempted to universalize the event and remove its specifically Jewish content by changing the text to say “*all* the innocent lives lost” and to change “tragic events that have struck Israel” to “tragedies that have struck Israel *and Gaza*” (emphasis to indicate the proposed revisions). In case it was not clear that the intent of such a revision was to change the character of the entire event and to thereby eviscerate the attempt for Jewish students to come together to express their grief and sorrow and solidarity in the face of Hamas’ genocidal, antisemitic attacks, the administrator continued by writing, “I recognize and deeply respect that there has to be a place for purely Jewish grief and sorrow, and yet I wonder if such a public gathering in such a charged moment might be more inclusive with edits such as these.”

Furthermore, no Middlebury administrators were willing to speak at the October 11, 2023, event itself (which was ultimately billed a “Jewish Unity Vigil”) despite requests from Jewish students for them to show support for the Jewish community on campus. Rather than appear in person as requested by the students, or send another university representative in her stead if she was unable to attend, Middlebury’s President Patton gave no explanation for that absence, and instead sent a short, written statement to be read aloud by the Hillel Rabbi, whom we understand to be an employee of the College. That statement compounded the administration’s previous efforts to dilute and universalize the Jewish aspect of the vigil by condemning not just the Hamas terrorist attacks (without mentioning Hamas or terrorism explicitly), but rather offering a generic condemnation of the “unacceptable violence we have seen in Israel *and Gaza*” and expressing a longing “for justice, in and for Israel, *in and for Palestine*” (emphases added).

In contrast, less than a month after this exchange, the administration permitted the Middlebury Muslim Student Association (“MSA”) to host a “Vigil for Palestine” to specifically mourn the loss of life in Gaza. There is no indication that Middlebury’s administration attempted to water down or universalize that event or to extend its message to include Israeli lives.<sup>6</sup> A Middlebury Police squad car was [reportedly](#) present outside the MSA’s November 9, 2023 event, and there is no indication that this was met with any hesitation from the university. Middlebury also reportedly went out of its way to offer space for the event *in the Middlebury Chapel* when it was originally planned for an outdoor venue, due to the “interest in attending and growing support for Palestine among the community.” No such accommodation was ever offered to the Jewish students, *who had to hold their vigil outside*, even though the size of the crowd at the Jewish vigil was reportedly much larger than the crowd at the MSA’s event. Lastly, Middlebury’s Vice President of Equity and Inclusion attended the “Vigil for Palestine,” and reportedly spoke before the crowd.

**As part of its investigation into Title VI violations, we respectfully request that OCR investigate the specific actions of Middlebury’s administration in connection with the Jewish students’ vigil, as well as its apparent disparate treatment of Jewish students in contrast with other minority groups on campus. Additionally, we respectfully request that OCR investigate whether administrative efforts to require that Jewish students not display the Israeli flag and that they refrain from publicly identifying their Jewish ethnicity as a condition to hosting a university program were violations of Title VI.**

**B. The Middlebury administration failed to respond adequately to reports about Students for Justice in Palestine harassing Jewish students, showing deliberate indifference to Jewish student safety.**

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<sup>6</sup> Both vigils were ultimately listed on the Middlebury events calendar, available at <https://www.middlebury.edu/events/>, though it is not clear exactly when they were posted, and the Jewish students’ event received very little promotion by the university. The October 11, 2023, vigil was listed on the calendar as a “Jewish Unity Vigil” and notably has no image accompanying it, as the advertisement submitted by the Jewish student had not been approved by the administration. The MSA’s November 9, 2023, event was listed as “Vigil for Palestine,” and is accompanied by an image of an advertisement for that event.

As a result of the Middlebury administration’s failure to express clear support for its Jewish and Israeli students, and their affirmative attempts to hinder expressions of those students’ identities in the immediate aftermath of the October 7<sup>th</sup> Hamas massacre, Jewish students reportedly felt unsupported, alone, and fearful on campus. This was communicated to Middlebury’s President and other administrators in an [email dated October 16, 2023](#) from the local Chabad Rabbi, who also noted that the Jewish students’ fear was evident at the vigil itself, where these students were “glancing over their shoulders” even when speaking with him, and were relieved to leave the campus that weekend. **The Rabbi conveyed that some students even expressed hesitation to return to campus at all after the weekend because they did not trust the school or campus police to protect them.** He requested that Middlebury’s administration issue a statement assuring the Jewish students of the university’s commitment to their protection.

The Rabbi further noted a specific incident that had occurred on October 12, 2023—when members of the Middlebury Students for Justice in Palestine (SJP) chapter participated in a so-called “Day of Resistance” by intimidating students while they were eating in the dining halls and blocking people from passing the doors of the dining halls. He called on Middlebury to provide information on what was being done to address those actions. Finally, the Rabbi requested identification of “the correct contact within the faculty or administration” to whom parents could address questions and concerns regarding their children’s safety, as well the “point person for campus safety” and “the point person in the DEI or EOO office for students to submit complaints of antisemitic harassment and discrimination.”

Middlebury responded to the Rabbi’s email not by issuing a statement to the broader Jewish community on campus with reassurances and resources, nor by addressing the October 12<sup>th</sup> incident at all. It did not commit to investigating whether SJP members’ October 12<sup>th</sup> disruption in the dining hall violated any Middlebury policies, such as the College’s General Conduct Policy’s prohibition for students to “engage in behavior that prevents someone’s ability to communicate or move freely” (Middlebury Handbook, [Section II.B.2.b.A](#)), even though such policies plainly apply. Rather, on October 16, 2023, Associate Vice President of Safety Demetria Kirby sent a formulaic email response to the Chabad Rabbi, not once mentioning antisemitism specifically, and instead cautioning the Rabbi that encouraging students to report incidents, threats and harassment through “alternative reporting methods” rather than to the Middlebury Department of Public Safety “increases the risk to individuals and to our community.”

Ms. Kirby’s email added further insult to injury by claiming that Middlebury was not aware of any incident of which the Jewish community need feel concerned, stating that “[t]he College’s Community Bias Response Team, on which I serve, met today. *Although nothing of concern was reported*, we remain vigilant” (emphasis added). This appears to be a direct admission that Middlebury does not consider incidents of antisemitic harassment to be of any concern, as it is incontrovertible that prior to that meeting, at least one member of that team, namely Ms. Kirby herself, who was a recipient of the Rabbi’s email, had received notice of antisemitism on campus, including at least one specific bias incident (i.e., the dining hall incident described in the Rabbi’s email).

**We respectfully request that OCR investigate how the Middlebury Community Bias Response Team has treated reports of antisemitic bias incidents and whether there is a**

**disparity between such treatment and the Team’s response to bias incidents targeting members of other protected groups. If inadequate or disparate treatment is found, we request that OCR require Middlebury to remediate this discrimination immediately.**

**C. Middlebury’s administration has responded inadequately to additional recent antisemitic incidents on Middlebury’s campus, including a refusal to enforce its own clearly defined and applicable policies.**

We respectfully submit that each of these incidents warrants inclusion in an OCR investigation into the university’s possible violations of Title VI:

- A Resident Assistant (“RA”) in a Middlebury dormitory posted a sign on the exterior of their dorm room door with the antisemitic slogan, “From the river to the sea, Palestine will be free,” widely recognized as a call for the genocide of Jews. A Jewish student who resided on that floor reported it directly to President Patton and several other administrators in an email on November 15, 2023, expressing his alarm that such a sign was allowed to be posted there. He provided these administrators with a photo of the sign, which he noted also had a slogan in Arabic that he translated as “From the river to the sea, Palestine will be Arab.” (See Appendix.)

Rather than investigate this incident as a possible violation of Middlebury’s policies, such as the General Conduct Policy’s explicit prohibition on “incitement or provocation to violence” (Middlebury Handbook, [Section II.B.2.b.A](#)), which is implicated by a call to genocide against Jews, especially when posted on a door in a university dormitory where Jewish students reside, administrators downplayed the incident.<sup>7</sup> In later meetings with Jewish students, administrators compared it to an “all lives matter” sign taken out of context rather than a call for genocide against Jews or the ethnic cleansing of Jews from Israel. We are unaware of any attempts by Middlebury to take any disciplinary action against the RA to remove that slogan from the dormitory door, or to address this issue with the RA.

We note that even if the university had conducted an investigation and determined that a call for genocide against Jews does not constitute a violation of the General Conduct Policy against inciting violence or other policies, it still creates an environment in which Jewish students feel unsafe due to their national origin or ethnicity. This is directly in conflict with the official role of a Middlebury RA, including an RA’s role “to help support the health and safety of residents and foster a healthy and respectful living environment” and the RAs’ obligation to “[c]onduct themselves in accordance with

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<sup>7</sup> Posting such a slogan in that location likely also runs afoul of another prohibition, provided in that same section of the General Conduct Policy, on “behavior that violates common standards of decency, disobeys local laws, statutes, or health policies, fails to be responsible or good citizens, or demonstrates contempt for the generally accepted values of the intellectual community.” Additionally, it runs counter to the Community Standards that Middlebury claims to underlie all of its Residential Life Policies: “safety; respect for self, others and our shared environment; individual responsibility; and fostering a diverse and inclusive community committed to civility, open-mindedness and finding common ground.” ([Middlebury Handbook, Section II.B.2.f](#)).



college policies and behave in a manner that supports the mission and values of Residential Life.” See Middlebury College Position Description (2024-2025) for [Resident Assistant \(RA\)](#). We are unaware of any action taken to enforce these standards despite apparent violations by the RA.

In a perverse twist, however, the university did ultimately inform one student involved in this incident that disciplinary proceedings had been initiated against them: the Jewish student who reported the RA’s call for genocide. It is unclear on what specious grounds the administration determined that the Jewish student, but not the RA, had somehow violated university policy. **We respectfully request that OCR investigate Middlebury’s apparent deliberate decision not to apply or enforce its own standards with respect to a student calling for the genocide of Jews, but instead to subject the Jewish student who reported his concerns about this issue to possible retaliatory disciplinary action for doing so.**

- On November 14, 2023, a Jewish student reported to President Patton and other administrators that she overheard another student outside the Davis Library stating loudly on the phone that “it is obviously necessary for Palestinians to fight for liberation with violence.” The student noted that she heard similar sentiments and calls for violence against civilians on a daily basis on campus and her perception that the openness with which such calls are expressed is indicative of the campus environment. The student attributed the prevalence of this hateful rhetoric in part to the university’s failure to make any meaningful and public effort to show support for Jewish students and failure to provide adequate educational opportunities for students to learn about the context of the war between Israel and Hamas. An administrator later met with the student and expressed sympathy. However, no action was taken to investigate or discipline students calling for violence against Jews, and despite talk of expanding educational opportunities, such efforts did not materialize.<sup>8</sup>
- Antisemitic signs were posted in various locations on Middlebury’s campus in violation of the university’s policies, including the General Conduct Policy’s prohibition on incitement to violence and the policy pertaining to Posting, which provides that “[p]osters are permitted on designated bulletin boards or kiosks only. Flyers may not be posted on doors, walls, windows, buildings, lamp posts, trees, or stairwells. Flyers found in these locations will be removed by Middlebury staff. Fines and/or disciplinary action may result from violations.” (Middlebury Handbook, [Section II.B.2.h](#)). On November 16,

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<sup>8</sup> One Jewish student shared with SCLJ that she made several good-faith requests for such opportunities, including a request for a panel discussion about antisemitism, but was given no explanation by Middlebury’s administration for the denial of those requests. Instead, Middlebury sufficed with three poorly publicized and inadequate group discussions organized by its KWD Collaborative in Conflict Transformation. These events were intended to be small, as evidenced by their description by the university as “small group conversations,” and when informed by the Jewish student that she did not receive notice of the first such event because it was only sent to the limited email list for the Conflict Transformation program, the head of that program told her that she was unable to send an all-campus email about her program’s events.

2023, a Jewish student notified Residential Life—with photographic evidence—that there were flyers referencing “Go/Gaza” and including names of people allegedly killed by Israel. They were posted on windows and doors of a campus dining hall, in direct contravention of the Posting policy. Despite the fact that Middlebury’s Posting policy does not limit which “Middlebury staff” can remove such flyers, Residential Life responded by punting the issue to someone else, because “[o]ur office doesn’t oversee the poster policy on campus.” The student forwarded the information to Middlebury’s Student Activities Office, per Residential Life’s suggestion, but received no response. On December 6, 2023, a Jewish student reported to a faculty member that signs with the antisemitic slogans “From the river to the sea” and “our taxes fund genocide” (in the shape and colors of a Palestinian flag – see Appendix) were affixed to the glass doors of Proctor Dining Hall. Such stickers were also reportedly spotted in other locations on campus.

Even though the Posting rule explicitly states that Middlebury staff will remove such signage and explicitly empowers the university to impose fines and take disciplinary action for violations, it is not clear whether Middlebury took any action to remove the antisemitic signs in either instance, and there is no indication that any fines were imposed or disciplinary action initiated against those posting those signs. Though we do not know exactly who posted those signs, we note that according to a statement posted to its Instagram page on October 11, 2023, “Go/Gaza” appears to be a resource created by the same organization, Middlebury SJP, whose members were responsible for the October 12, 2023, dining hall disruptions as part of the “Day of Resistance” activities discussed above. Because Middlebury SJP’s resource is promoted on the signs, should the university begin to enforce its own rules and initiate an investigation into the violation of its Posting rules, we submit that it would be reasonable for it to begin by investigating whether any members of that group were responsible. **We respectfully request that OCR investigate Middlebury’s failure to enforce its own rules when they involved antisemitic and anti-Zionist signs on campus.**

- Middlebury’s Students for Justice in Palestine chapter contributed to the hostile climate for Jewish and Israeli students on campus by posting antisemitic statements on social media. In the same October 11, 2023 Instagram post in which it claimed credit for creating “Go/Gaza,” Middlebury SJP included the antisemitic call to genocide, “From the river to the sea,” denied the Jewish people’s right to self-determination by referring to Israel’s 75 years of existence as a “Nakba” (i.e., catastrophe), and in the context of the immediate aftermath of Hamas’s violent attacks which began a mere 4 days earlier, expressed support for the “Palestinian right to resist.” In a later Instagram story shared by the Middlebury SJP and saved to its Instagram Highlight Reel, the group appeared to advocate and incite violence against Israelis, justifying assault, arson and even murder as “decolonization.” The post read, “That soldier with a stone in his fascist face? Decolonization. That colonizer car and surveillance cameras in flames? Decolonization. Those apartheid ‘checkpoints’ emptied out of their gatekeepers? Decolonization. It’s not an abstract theory.” Such language referring to Jews in Israel as “colonizers” implicitly denies 3,000 years of Jewish history, identity, and rights in their ancestral homeland, in this case in an effort to overtly justify violence against them.

To our knowledge, Middlebury has neither investigated nor taken any disciplinary action against SJP or those responsible for these posts for possible violations of its student code of conduct, nor has it exercised its own right and ability to condemn such posts, even though they undoubtedly contribute to the hostile environment for Jews and Israelis on campus.

- Kemi Fuentes-George, Middlebury Associate Professor of Political Science, was [quoted](#) in Middlebury's student newspaper on November 16, 2023 referring to Israel's defensive military actions as "ethnic cleansing." On another occasion, when a Jewish student expressed concerns to another professor about a lack of context and inordinate and inappropriate focus on Israel in her introductory global studies class, that professor immediately guessed that it was Professor Fuentes-George's class and implied to the student that such complaints had been made before about that professor. **We respectfully request that OCR investigate whether previous complaints had been made about antisemitic behavior or statements by Professor Fuentes-George in the course of classroom instruction and whether Middlebury's administration took any action to investigate or remediate the impact of that behavior on Jewish and Israeli students.**
- On November 15, 2023, when a Jewish student commented in a Hillel group chat that supporting the Palestinian people does not conflict with clearly and unequivocally condemning Hamas, someone else in the chat called that student a "genocide apologist." The latter comment was ultimately removed, but the facts that it was posted there and that it received several "Likes" before it was removed are reflective of the climate of fear at Middlebury for Jewish and Israeli students to express that part of their identity that manifests as a connection to Israel. In this instance, the student reported to Middlebury administrators that she received several private messages from other Jewish students saying they supported her post but were afraid that "Liking" it would lead to shaming from others in the group chat, so they remained silent. The same student also reported to administrators that in her personal interactions with other Jewish students at Middlebury, the antisemitic climate made them hesitant even to use the word "Israel," opting instead to refer to "the Middle East" or "Tel Aviv" when referring to their own visits to Israel.
- Since October 7<sup>th</sup>, students have posted numerous antisemitic comments on Middlebury's YikYak social media page, including calls for genocide against Jews, such as "May Allah remove Israel From earth" and "From the river to the sea Palestine will be free" (see Appendix for images). While such posts were made anonymously, the large volume of posts justifying violence against Jews and Israelis has made students with such a national origin and ethnicity fearful, alarmed, and uncomfortable on campus. A Jewish student reported the impact of these posts and included numerous screenshots of them in an email to various Middlebury administrators, including the Office of the President and the Office of the Provost, on November 17, 2023, and again on several other occasions in November and early December 2023. **Despite receiving several such pleas, both in person and via email, to issue a statement condemning antisemitism and expressing support for the Jewish community, these Middlebury administrators have refused to issue such**

a statement.

**D. Rather than address its antisemitism problem, Middlebury's administration has attempted to hide and deny its existence.**

Rather than combat its festering antisemitism problem, Middlebury administrators have persisted in downplaying it or denying that a problem on campus even exists. The Jewish student who sent multiple emails with numerous screenshots of antisemitic YikYak posts to the Office of the Provost reported that in a December 4, 2023, meeting, the Provost, incredibly, still claimed she does not know what occurs on the Middlebury YikYak platform. **While the Provost's office may not control the YikYak account, once the university was given actual notice of the posts and their detrimental impact on Jewish and Israeli students' ability to participate in the educational and extracurricular programs at the university, it had a duty to take action to remediate the problem.** At that same meeting, the Vice President of Equity and Inclusion expressed that he was upset to see the YikYak content that the student brought to their attention; this leaves no doubt that the university had notice of the problem. Yet Middlebury willfully failed to take any action to remediate it.

According to the Jewish student's account of the December 4<sup>th</sup> meeting with the Provost, when the student asked that the administration issue a strong statement condemning antisemitism, and explained that the letter that was sent nearly two months earlier to students had been inadequate, **the Provost expressed that she thought the administration had already been very supportive to Jewish students and that she does not know what more there is to do.**

**Perhaps even more disturbing than Middlebury's own silence and deliberate inaction in the face of antisemitic climate on campus, however, is the administration's attempt to keep students quiet about its inaction.** After a November 16, 2023, meeting with the Provost regarding concerns about antisemitism on campus, a Jewish student sent a "recap" email to the Provost, copying the Middlebury president, summarizing and memorializing their meeting. The Provost responded saying the "recap below is not as I understood our conversation," yet she did not specify which part of the recap was inaccurate or provide her own alternative understanding of it. On December 4, 2023, the student met again with the Provost. This time, the Provost reportedly told the student that she was uncomfortable that the student had sent out an email recapping the last meeting and said notes should not be shared, because they were still in conversation (rather than the earlier pretense that the notes were somehow inaccurate).

**The Provost then instructed the student not to send any email memorializing either the fact that the conversation took place or the topics that were discussed.** When the student pushed back and expressed concern that without such a record of their conversation, there would not be follow-up action, the Provost asked the Vice President of Equity and Inclusion to send a recap of the meeting instead of the student. The VP did so two days later but omitted several crucial details and entire topics that had been discussed, including any reference to the student informing the administrators about antisemitic bias in a particular class or to the administrators' insistence that they had already done all they could to support Jewish students. The recap email also omitted any reference to the Provost's objections to the student informing anyone of her own impressions and recollections from their meetings, or to the administration's unwillingness to

commit to taking any action to remediate the environment for Jewish students or even to provide the student with future updates.

**E. Middlebury has denied official club recognition to Jewish students seeking to establish a student organization that celebrates Jewish identity and culture on spurious grounds and while recognizing clubs belonging to other ethnic, religious, and identity groups.**

Currently, there is only one Jewish and officially recognized student group on Middlebury's campus—Hillel. However, according to student reports, even Middlebury Hillel contributes to the pervasively hostile climate for Jews on campus. **To our knowledge, at least one student Hillel board member is also an active member of Students for Justice in Palestine, the group whose harassment of Jewish students is outlined above; the Hillel Rabbi is a paid employee of Middlebury and therefore a member of Middlebury's administration—by no means independent of the administration and its whims.**

Jewish students report that weekly emails sent out by the Middlebury Hillel and in the Hillel group chat regularly include advertisements for anti-Zionist events and messages that are hostile to Jewish students for whom Zionism is a core part of their Jewish identity. For example, in one expletive-laced message (see Appendix), a student posted in the Hillel group chat an event they were planning in collaboration with Students for Justice in Palestine. The message directed students to SJP's "Go/Gaza" resources and referred to "the complicity of US funded genocide in Gaza."<sup>9</sup>

In this and other ways, Jewish students whose needs have not been met by the campus Hillel have sought formal student club recognition for Chabad, an alternative Jewish organization, for over six years, since at least 2018. However, Middlebury thus far has denied all such requests for Chabad club recognition, in decisions lacking transparency and citing baseless reasons. It is critical to note that without official recognition, Chabad and its affiliated students cannot receive funding or operate on campus like other student groups. Jewish students affiliated with Chabad are routinely obstructed or denied space for gatherings, Shabbat dinners, holiday services, or any other cultural or Jewish identity-related events they may wish to organize under Chabad's banner. One such denial of Chabad's application for recognition was detailed in StandWithUs' [letter](#) to Middlebury's President in May 2021. The College still has not remedied the issue.

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<sup>9</sup> Such claims of genocide constitute comparisons of contemporary Israeli actions to the actions of the Nazis in WWII, which may be examples of antisemitism according to the IHRA definition. In case there is doubt that such a comparison were intended by this language, the same student later signed an "[open letter](#)" which made that connection more directly, stating, in the context of calling for a ceasefire in Gaza, "We stand against genocide, we believe saying 'never again' after the Holocaust means never again for anyone and we understand that Jews are only safe when everyone is safe."

Just this month, on February 2, 2024, the “Student Organization Registration Committee” (“Committee”), which includes faculty liaisons, emailed the Jewish student applying for Chabad student organization recognition that their student club has been rejected yet again. Among the reasons the Committee cited for denying Chabad student organization status was that, although there was “nuance of what [was being] requested vs what is currently offered,” the Committee had “a concern that the funding request for food replicates programming already funded and offered by Hillel for Shabbat dinners.” **Thus, it appears that Chabad’s rejection was at least in part based on a disturbing reluctance by Middlebury to provide kosher food options to its Jewish students who require such dietary accommodations, or to allow more than one Jewish cultural organization on campus to host events with kosher food.**

Furthermore, the rejection email did not explain why providing kosher food at two different Shabbat dinners on campus would be cost prohibitive, especially if certain funding resources were simply to be reallocated—as students with such dietary requirements who currently either do not attend Hillel’s Shabbat dinners or would prefer not to attend would instead go to Chabad’s Shabbat meals.

Likewise, the rejection email did not explain why duplication of costs is “a concern”—meaning Middlebury believes it has legitimate grounds to deny a Jewish club’s recognition simply on the grounds that one Jewish group is more than enough for the campus. Yet, Middlebury has found it has sufficient resources to recognize [at least six different Christian organizations](#) currently active on Middlebury’s campus; it funds both the Muslim Students Association and Students for Justice in Palestine as student organizations, even though there is an overlap of their programming; it recognizes at least four different student organizations geared toward the nuanced needs of Middlebury’s Asian students; and so on.<sup>10</sup>

The committee’s email inexplicably cited as one of its other reasons for its rejection of the application to recognize Chabad that it looks for “a demonstrated history of students’ repeated engagement with your organizations’ activities and events.” This excuse is patently pretextual and circular, given that the lack of formal recognition and the resources that come along with it would facilitate such engagement and that even without such recognition, Middlebury students’ engagement with Chabad’s activities have been longstanding and well-known. Such activities include the October 11, 2023 Jewish Unity Vigil, which was organized by Chabad and turned out an [estimated](#) 150 students and community members.

The other pretextual reasons provided for the rejection were that the roster of students to be involved in the organization was “predominantly first-year students,” on the grounds that the committee “sees a higher success rate in student organizations who have a wide range of student classifications who are actively involved as it can help with organization sustainability and succession planning.” However, such reasoning is belied by the fact that requests for Chabad’s

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<sup>10</sup> The “Radical Asians (RAISINS),” “South Asian Students Association,” “Southeast Asian Society (SEAS)” and “West Asian and North African Students” clubs are all currently listed on Middlebury’s [website](#) and cater to the nuanced needs of Middlebury’s Asian students, just as a second cultural student organization would cater to the nuanced needs of those Jewish students who find Hillel inadequate for their needs.

recognition have been made consistently *for over six years*, showing that the demand for this organization is not limited to the current roster. The reasoning also fails to hold up to scrutiny when one considers the reason such an alternative to Hillel is demanded in the first place. First-year students, by virtue of the fact that they have the most time left on a campus with a pervasive antisemitism problem, would have the greatest interest in the success of the organization.

**We request that OCR investigate why Middlebury continuously rejects Jewish students' requests for recognition of an alternative Jewish student organization, Chabad, and treats those requests differently than requests from other groups for such recognition. We also respectfully request that OCR determine whether and to what extent the denials were motivated by conflicts of interest, unlawful discrimination, or other improper motives, including a desire to control messaging and programming of the Hillel through its paid employee.**

## **V. SUGGESTED REMEDIES**

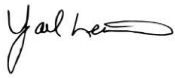
As demonstrated by the foregoing facts, the Middlebury administration has fostered a pervasively hostile environment for Jewish students on its campus. This has detrimentally impacted the ability of these students to participate equally in the educational and extracurricular activities at Middlebury. It has caused many Jewish students to fear expressing their very identity on campus and others to leave the university altogether.

Therefore, we respectfully request that OCR investigate the recent actions of Middlebury's administration, including its failure or unwillingness to enforce its own policies as described above, for violations of Title VI. If such violations are discovered, we respectfully request that OCR compel Middlebury to adopt the following actions, along with any other remedial actions that OCR deems appropriate:

1. Reverse and cease all further punitive and retaliatory measures against the Jewish student who reported antisemitic calls for genocide posted by a resident assistant on his dormitory floor;
2. Immediately recognize Chabad formally as a student organization, enabling it to access university resources and space, so that it can function as a safe and supportive space for Jewish and Israeli students for whom Hillel is not an adequate alternative;
3. Fully investigate all incidents of antisemitic behavior described above for violations of university policies, and implement robust enforcement of those policies in order to provide accountability and deterrence;
4. Provide an accounting of university policies and procedures for addressing incidents of antisemitic bias, including an explanation for why the College's Community Bias Response Team deemed specific information about antisemitic behavior as a matter of no concern, and to the extent that those policies or their implementation are deficient, to revise them or supplement training so that incidents of bias against Jews are adequately addressed;

5. Review and improve university policies and internal procedures for faculty such that classroom time is not abused for antisemitic purposes, and that Middlebury treat complaints of such abuse with appropriate consideration;
6. Adopt the IHRA Working Definition of Antisemitism, implement it within DEI and other campus non-discrimination policies, and be guided by this definition when addressing potential incidents of antisemitic discrimination and harassment;
7. Require Middlebury to provide training on the IHRA Working Definition of Antisemitism and its application to administrators, faculty, and staff directly involved in processing, investigating, and/or resolving complaints and other reports of antisemitic discrimination or Israeli national origin discrimination; and
8. Issue an official statement recognizing that for many individuals Zionism is an integral component of Jewish identity, affirming Middlebury's commitment to protecting the rights of Jewish and Israeli students on campus to express freely Jewish and Zionist viewpoints and to participate in all aspects of campus life free from harassment and discrimination, and unequivocally condemning all forms of antisemitism, without universalizing that condemnation.

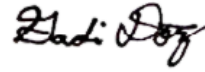
Respectfully submitted,



Yael Lerman  
Director  
SCLJ



Carly Gammil  
Director of Legal Strategy  
SCLJ



Gadi Dotz  
Assistant Director  
SCLJ

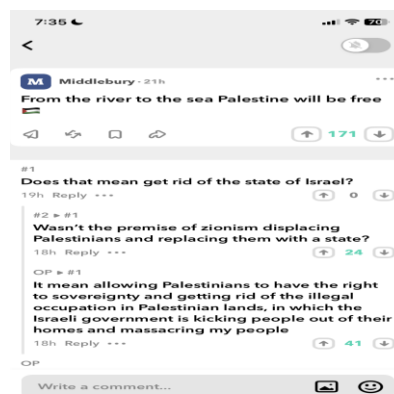


## APPENDIX

Original design submitted by Jewish student for a poster to advertise the October 11, 2023 Jewish vigil to mourn the victims of the deadliest attack on Jews since the Holocaust, whose message and focus Middlebury administrators tried to change:



Examples of anonymous antisemitic posts on YikYak that were shared with the Middlebury Provost:



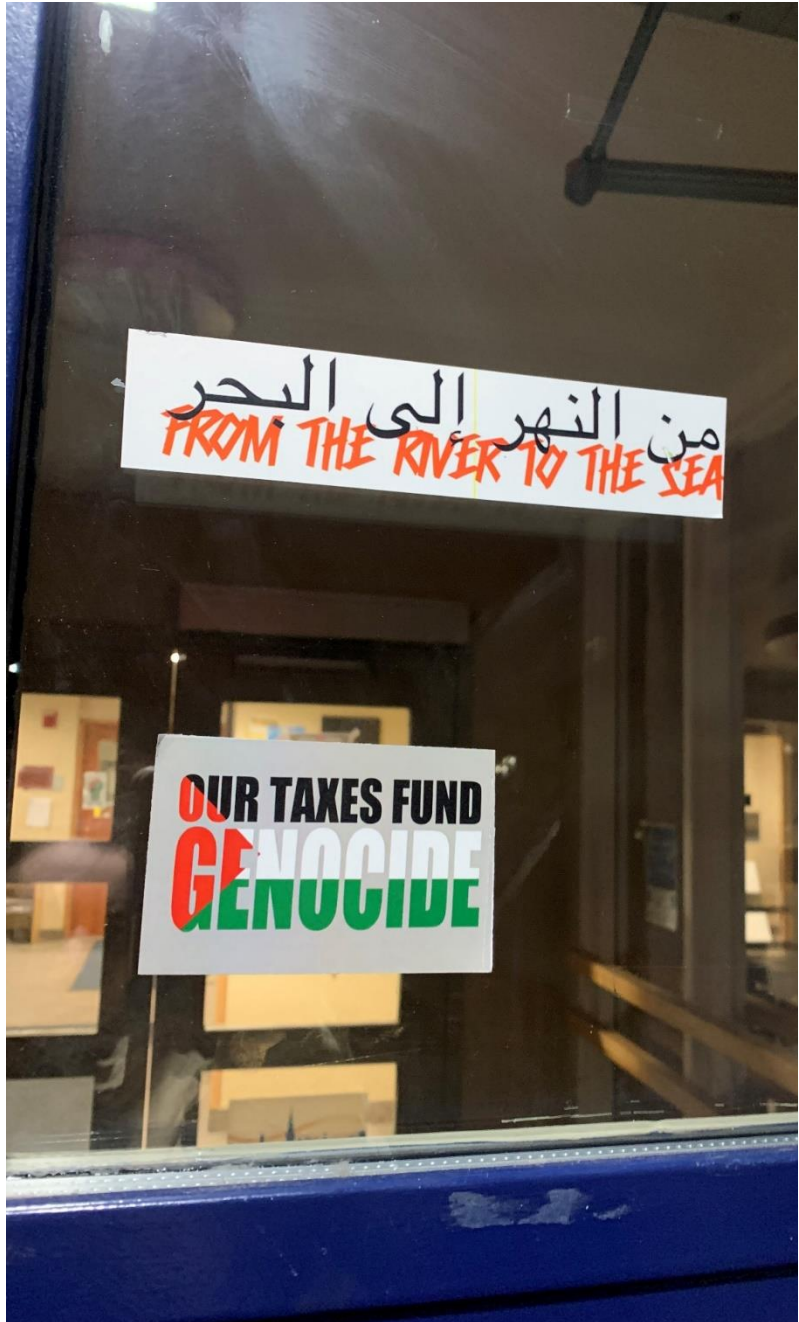
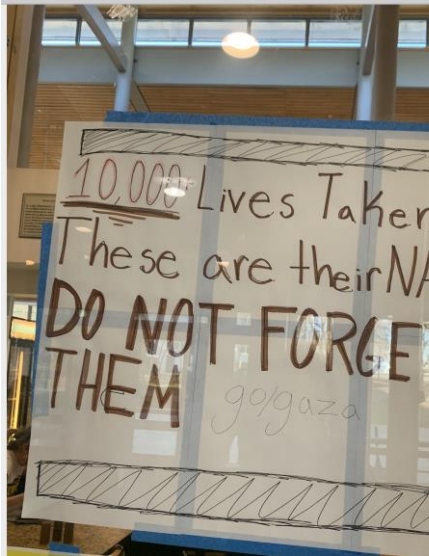
Sign on resident assistant's door with the antisemitic slogan calling for genocide against Jews, "From the river to the sea, Palestine will be free," for which the resident assistant faced no disciplinary action and for which the Jewish student who reported it faces retaliatory disciplinary action:



Post shared on Middlebury SJP's Instagram story promoting assault, arson, and murder of Israelis:



Some of the signs with anti-Zionist and antisemitic messages that were posted in clear violation of Middlebury's rules:



Expletive-laced message from student posted in Hillel group chat accusing Israel of committing “genocide” in Gaza, and sharing resources from Students for Justice in Palestine:

Levi Hoffman 2



Hey folx,

You might see this poster and be asking yourself what the fuck this means. I'm partnering with Students for Justice in Palestine (SJP) and am planning an advertising/advocacy event with them tomorrow (Halloween Day).

If you're available, orange, and/or fuck, we'll meet at \*1240p in front of the chapel\* and proceed down the hill together, taking however long we need (5-15 min).

The aim of "orange fuck" is to challenge our perceptions of normality regarding the complicity of US funded genocide in Palestine. By suspending disbelief via "orange fuck," I believe we can be more receptive to ideas that we would normally avoid, intentionally or not. If "orange fuck" isn't normal but genocide is, then perhaps we should carefully reconsider what the fuck is going on.

If this doesn't jibe, no worries, but you should still check out GO/GA7A