



The Louis D. Brandeis Center
for Human Rights Under Law

VIA E-MAIL

Hon. Catherine E. Lhamon
Assistant Secretary for Civil Rights
U.S. Department of Education
Office for Civil Rights
400 Maryland Avenue, S.W., 4th Floor
Washington, D.C. 20202
Email: Catherine.Lhamon@ed.gov

U.S. Department of Education
Office for Civil Rights
Boston office
5 Post Office Square, 8th Floor
Boston, MA 02109-3921
Email: OCR.Boston@ed.gov

Re: Civil Rights Violations at Wellesley College

I. Introduction

Jewish students at Wellesley College (“Wellesley”) are being marginalized and excluded from their dormitory community in the aftermath of an email sent to dorm residents by residential staff and assistants (RAs) (all students) stating “that there should be no space, no consideration, and no support for Zionism within the Wellesley College community.”¹

When advised of the email, Wellesley failed to take prompt and effective steps reasonably calculated to address and undue the exclusion of Jewish students from Munger Hall or to eliminate the hostile environment created through the shunning and marginalization of Jewish students by Munger Hall residential staff. Instead, Wellesley President Paula A. Johnson ignored the discriminatory attitude of the College’s paid student residential staff by describing them as merely having “expressed [their] views on the Israel-Hamas conflict” and baselessly insisting that these student “leaders” had “learned² from the “episode.”² Contrary to the claims made by Wellesley’s administration, the student residence hall leaders have made it clear that they did not learn from their mistreatment of Jewish students.

¹ See ██████████ *Statement on the Palestinian-Israeli War* (October 19, 2023).

² See Paula A. Johnson, *My reflections in this painful time* (October 20, 2023) [My reflections in this painful time | College Announcements \(wellesley.edu\)](https://www.wellesley.edu/college-announcements).

On October 20, 2023, the same day as President Johnson’s email, Munger Hall student employees sent a second email to Munger Hall residents purporting to apologize for the first email. However, hours before sending their second email, one of the Munger Hall RAs stated on her personal Instagram that the second email was being sent because she “had a gun to [her] head,” that she maintained her initial position in the first email, and students who complained are “some weak bitches fr.”³ On information and belief, the Instagram post was seen by current and former Wellesley students, including Jewish student residents in Munger Hall.

The upcoming Munger Hall email referred to in the Instagram post states that the Munger Hall President and four RAs “regret any harm [their] words have caused” and that they are sorry for overstepping their responsibilities.⁴ The email did not acknowledge or apologize for the anti-Semitic remarks in the first email and did not walk back the exclusionary position. The second email told Munger Hall residents that the Munger Hall President and four RAs were sorry that some students were offended, but they maintained their beliefs, namely, the belief that Zionists should not be part of the Wellesley community. Indeed, students who saw the RA’s Instagram post knew that the Munger Hall President and four Resident Assistants were not actually sorry for excluding Zionists from the community and were in fact sending a message that they did not reverse their stance that there is no space for Zionists in Munger Hall.

Wellesley is permitting a hostile environment to develop and persist in Munger Hall and the wider Wellesley community by allowing students to marginalize and exclude Jewish students for whom Zionism is integral to their Jewish identity. Jewish students who celebrate the Jews’ ancestral connection to Israel are unable to participate with their full identity in Wellesley’s residential community and to receive the support of unbiased residential staff, whose job is to foster an inclusive and welcoming environment for all members of the Wellesley community. Thus, Wellesley is denying equal access to educational opportunities and services to Jewish students on the basis of their shared ancestry and ethnicity in violation of Title VI of the Civil Rights Act of 1964.

For the foregoing reasons, and as detailed more fully in this Complaint, the Louis D. Brandeis Center for Human Rights Under Law (the “Brandeis Center” or “LDB”) and Jewish on Campus (“JOC”) request that the Office for Civil Rights (“OCR”) investigate Wellesley, a recipient of federal financial assistance,⁵ for violations of Title VI of the Civil Rights Act of 1964 (hereinafter “Title VI”) and the statute’s implementing regulations.⁶

II. For many Jewish students at Wellesley, Zionism is an integral component of their Jewish ethnic identity.

Guidance issued in 2004 by the Office for Civil Rights (OCR) and the Department of Justice (DOJ) extended protections under Title VI to cover discrimination against Jews on the

³ See [REDACTED] [warning viewers about a second Munger Hall email] retrieved October 20, 2023.

⁴ [REDACTED] *Addressing the email I sent last night* (October 20, 2023).

⁵ See, e.g., Wellesley College, *Student Financial Services: Understanding Financial Aid; Types of Aid, Types of Aid | Wellesley College* (accessed November 8, 2023).

⁶ See 42 U.S.C. § 2000d et seq.; see also 34 CFR §§ 100.3(b)(1)(i), (iv), (vi).

basis of their “actual or perceived shared ancestry or ethnic characteristics.”⁷ For many Jews, including many Jewish students at Wellesley, Zionism is an integral component of Jewish ancestral and ethnic identity. Historically and legally, Judaism is understood to be both a faith and an ethnicity. Jews share not only religious traditions, but also a deep historical sense of Jewish peoplehood. The Jewish people’s history, theology, and culture are deeply intertwined with the Land of Israel.⁸ For many Jews, including many Jewish students at Wellesley, expressing support for the Jewish homeland is a sincere and deeply felt expression of the Jewish people’s shared ancestral, religious, and ethnic identification with the Land of Israel.

Zionism is as integral to Judaism as observing the Jewish Sabbath or maintaining a kosher diet. Of course, not all Jews observe the Sabbath or keep kosher, but those who do clearly are expressing important components of their Jewish identity. Similarly, not all Jews are Zionists. But for many Jews, including many Jewish students at Wellesley, identifying with and expressing support for the Jewish homeland is also a sincere and deeply felt expression of their Jewish ethnic identity. Harassing, marginalizing, demonizing, and excluding these Jewish students on the basis of the Zionist component of their Jewish identity is just as unlawful and discriminatory as attacking a Jewish student for observing the Sabbath or keeping kosher.

Thus, when Jewish students at Wellesley are castigated as “Zionists” and excluded from the opportunities in their dormitory or subjected to a hostile environment on the basis of their pride in their Jewish ancestry and heritage, they are being targeted, isolated, and excluded on the basis of their “actual or perceived shared ancestry or ethnic characteristics” as recognized by the Department of Education Office for Civil Rights⁹ and in violation of Title VI of the Civil Rights Act of 1964.¹⁰

⁷ See Russlynn Ali, “Dear Colleague Letter” at 2–3, U.S. DEP’T EDUC.–OFFICE FOR C.R. (Oct. 26, 2010) [hereinafter 2010 Dear Colleague Letter], <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf> (explaining a university must take “prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring”), see also Letter from Thomas E. Perez, Assistant Att’y Gen., U.S. Dep’t of Just.–C.R. Div., to Russlyn H. Ali, Assistant Sec’y for C.R., U.S. Dep’t of Educ.–Office for C.R., Re: Title VI and Coverage of Religiously Identifiable Groups (Sep. 8, 2010), https://www.justice.gov/sites/default/files/crt/legacy/2011/05/04/090810_AAG_Perez_Letter_to_Ed_OCR_Title%20VI_and_Religiously_Identifiable_Groups.pdf; Kenneth L. Marcus, Title VI and Title IX Religious Discrimination in Schools and Colleges: Dear Colleague Letter, U.S. DEP’T OF EDUC.–OFFICE FOR C. R. (Sep. 13, 2004), <https://www2.ed.gov/about/offices/list/ocr/religious-rights2004.html>.

⁸ See Alyza D. Lewin, Zionism: The Integral Component of Jewish Identity that Jews are Historically Pressured to Shed, 26 ISRAEL AFFAIRS 330 (2020), available at <https://brandeiscenter.com/wp-content/uploads/2020/08/Zionism-The-integral-component-of-Jewish-identity-that-Jews-are-historically-pressured-to-shed.pdf>.

⁹ See Office for Civil Rights, Complaint No. 01-22-2022: The University of Vermont and State Agricultural College (April 3, 2023) [University of Vermont and State Agricultural College \(PDF\) \(ed.gov\)](#).

¹⁰ See Lewin, *supra* note 8; see also sources *supra* note 7.

III. Statement of Facts.

On October 19, 2023, the Munger Hall President and four Resident Assistants sent the first Munger email, calling for the rejection and exclusion of Zionists from the Wellesley community.

On October 20, 2023, a Munger Hall Resident Assistant posted on her personal Instagram a statement that the next email sent from Munger Hall student residential staff would be sent because she had a “gun to her head” and that the Munger Hall student residential staff stood by their first email. On information and belief, current residents of Munger Hall saw the Instagram post on Instagram and/or were sent the Instagram post by classmates. Shortly after the Instagram post, the Munger Hall student residential staff sent the second Munger email which did not acknowledge the anti-Semitic exclusion of Zionists in the first email. On information and belief, the second Munger email was seen by Wellesley employee(s) before it was sent to the student residents.

On October 20, 2023, President Johnson informed the Wellesley community that the Munger Hall student residential staff had learned from their mistake. President Johnson did not address the anti-Semitic nature of the first email, or condemn the statements calling to exclude Zionists from Wellesley. President Johnson’s email encouraged students to attend a panel that faculty were hosting the following week about the Israel-Palestine conflict.

But the Israel-Palestine panel event only fueled anti-Jewish hostility by advancing anti-Zionist and other anti-Semitic ideas, thereby further maligning and marginalizing Jewish students on the basis of their Jewish ancestral identity connected to Israel. One of the panelists told students that it is not anti-Semitic to deny Israel’s right to exist. The same panelist told students that she does not believe the first Munger email said anything wrong and that President Johnson would not have said anything if the email was pro-Israel. Panelists also minimized the atrocities committed by Hamas against innocent Israeli civilians on October 7, by claiming that only a small extremist faction of Hamas are terrorists, that Hamas shouldn’t be demonized, and that Hamas is not anti-Semitic because they only want to kill Zionists.

IV. Wellesley Students have been denied access to educational opportunities due to fear of harassment and discrimination on the basis of their Jewish identity.

Wellesley RAs are “key student leaders” responsible for enhancing “the quality of residential life at Wellesley.”¹¹ RAs provide “programs and services that support the mission, vision, and values” of the Wellesley community.¹² They are tasked with “fostering opportunities for residents to explore their social, physical, intellectual, and emotional health and well-being... providing support to residents... providing access to programs are resources that cultivate the discovery of a strong sense of self... and creating strong floor and hall communities.”¹³

¹¹ See Wellesley College, Position Descriptions: Resident Assistant - RA (accessed November 8, 2023), <https://www.wellesley.edu/studentlife/involvement/student-leader-selection-and-training/position-descriptions>.

¹² *Id.*

¹³ *Id.*

Instead of helping their Jewish students be part of the community, explore their identity, or cultivate a strong sense of self, the Munger Hall House President and RAs told Jewish students that they do not belong in the floor or hall community if their identity includes Zionism. These Jewish students therefore feel unwelcome at school events. On information and belief, Munger Hall student residential staff unilaterally decided to divert discretionary funds - which are normally used for community development or snacks- and donate them to programs in Palestine;¹⁴ the residential staff did not seek input or discussion with Jewish community members about this decision, thereby further marginalizing Jewish voices.

Jewish students whose identity includes Zionism do not feel welcome in Munger Hall after being informed by their dormitory student leaders and staff that they have no place in the community. Jewish students living in Munger Hall report feeling “extremely isolated” and “alone;” they do not trust their dormitory RAs to help or support them at all, much less with what they are experiencing in the wake of the October 7 attacks. One Jewish student in Munger Hall described the email and anti-Semitic atmosphere as “horrendous but not surprising.” A Jewish freshman reported that her friends began turning against her following the first Munger email because she is a Zionist. A Jewish sophomore reports that Wellesley is increasingly “not a good space for Jews” and that she wants to transfer schools in order to escape the anti-Semitic environment at Wellesley.

V. Wellesley has Violated Title VI of the Civil Rights Act of 1964.

Title VI of the Civil Rights Act of 1964 (Title VI) prohibits discrimination on the basis of race, color, and national origin in educational institutions that receive federal funding.¹⁵ Harassment creates a “hostile environment” for purposes of Title VI when it “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.”¹⁶ A Title VI recipient “must take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment, and prevent the harassment from recurring.”¹⁷ Further, OCR has explained that a college or university can violate Title VI if peer harassment “is sufficiently serious that it creates a hostile environment and such harassment is encouraged, tolerated, not adequately addressed, or ignored by school employees.”¹⁸

Guidance issued by the OCR and DOJ since 2004 has extended protections under Title VI to cover discrimination against Jews on the basis of their “actual or perceived shared ancestry or ethnic characteristics.”¹⁹ As clarified in Executive Order 13899 (the Executive Order), Title

¹⁴ See *supra* note 1.

¹⁵ See 42 U.S.C. § 2000d et seq.

¹⁶ See 2010 Dear Colleague Letter, *supra* note 7, at 2 (“[Under Title VI, a] school is responsible for addressing harassment incidents about which it knows or reasonably should have known”).

¹⁷ *Id.* at 2-3.

¹⁸ *Id.* at 1.

¹⁹ See, e.g., *id.* at 5; see also Letter from Thomas E. Perez, *supra* note 7; Marcus, *supra* note 7.

VI must be enforced “against prohibited forms of discrimination rooted in anti-Semitism as vigorously as against all other forms of discrimination prohibited by Title VI.”²⁰ Further, the Executive Order directs the Department of Education to refer to the International Holocaust Remembrance Alliance working definition of antisemitism (the IHRA Definition) and its contemporary examples, when investigating allegations of anti-Semitism under Title VI.²¹

The Executive Order is particularly relevant here, where the unlawful harassment and discriminatory exclusion are motivated by anti-Semitic bias and target Wellesley students on the basis of their actual or perceived shared ancestry and ethnic Jewish identity. The IHRA Definition and, more specifically, the contemporary examples it cites, provide helpful guidance for understanding why the anti-Semitic email directed at Wellesley students is targeted, intentional, and discriminatory intimidation on the basis of their Jewish identity. The IHRA Definition states that “the denial to Jews of opportunities or services available to others” is “antisemitic discrimination.” The marginalization and exclusion of Wellesley’s Jewish students from the Munger residential hall on the basis of the students’ Jewish identity constitutes anti-Semitic discrimination. By stating that there is “no space, no consideration, and no support... within the Wellesley community” for Zionists, the residential staff is sending the unmistakable message that Jewish students who celebrate the Jewish people’s ancestral connection to Israel are unwelcome in Munger Hall.²² Further, under IHRA, denying the Jewish people’s right to self-determination (and by extension, denying Jewish students’ right to support the Jewish homeland) is an indicium of anti-Semitism.²³

Further, the Wellesley administration did not take adequate steps to intervene and reverse the discriminatory exclusion and to eliminate the hostile environment for Jewish students. President Johnson failed to condemn the exclusion of Jewish students in the First Munger Email as anti-Semitic discrimination. To make matters worse, Wellesley promoted and encouraged students to attend an event that fueled anti-Jewish hostility by advancing anti-Semitic themes and conspiracy theories, minimizing Hamas’ savage terrorist violence against Jews on October 7, 2023, and denying that Hamas is a terrorist organization committed to the annihilation of Israel through genocidal violence against Jews. Instead of forcefully and publicly rejecting the residential staff’s marginalization and exclusion of Jewish students on the basis of their shared ancestry, Wellesley promoted an event that further shunned and maligned Jewish students on the same basis. Wellesley therefore failed to reverse or even address the discriminatory exclusion of Jewish students from Munger Hall and failed to take prompt and effective steps reasonably calculated to eliminate the hostile environment.

²⁰ Exec. Order No. 13899 §1, 3 C.F.R. 68779-68780 (2019); see also Questions and Answers on Executive Order 13899 (Combating Anti-Semitism and OCR’s Enforcement of Title VI of the Civil Rights Act of 1964, U.S. DEP’T EDUC.–OFFICE FOR C.R. (Jan. 19, 2021), <https://www2.ed.gov/about/offices/list/ocr/docs/qa-titleix-anti-semitism-20210119.pdf>.

²¹ See *id.* at §2(a)(i) and (ii); see also INT’L HOLOCAUST REMEMBRANCE ALLIANCE, Working Definition of Antisemitism, <https://www.holocaustremembrance.com/working-definition-antisemitism> (last visited Oct. 1, 2021) [hereinafter IHRA Definition].

²² IHRA Definition, *supra* note 21 (articulating the contemporary examples of anti-Semitism).

²³ *Id.* (explaining that “[d]enying the Jewish people their right to self-determination” is a form of anti-Semitism).

VI. Suggested Remedies: OCR should require Wellesley to come into compliance with Title VI by eliminating the hostile environment and its effects, preventing the harassment from recurring, and ensuring that Jewish students have equal access to all educational opportunities at Wellesley.

In light of Wellesley's failure to (1) ensure that the University provides all students, including Jewish students, with equal access to dormitories and all residential benefits and services they are entitled to; (2) take prompt and effective steps to protect the Jewish students who have been unlawfully targeted and excluded on the basis of their Jewish identities; and (3) eliminate the hostile environment for Jewish students in Munger Hall and the wider Wellesley community, OCR should require Wellesley to take the following steps to come into compliance with Title VI.

A. Wellesley must take action to ensure that all students have equal access to university residential facilities and services provided by residential staff on a non-discriminatory basis.

- a. Wellesley must establish and/or revise existing policies and procedures to ensure that no Wellesley student is denied access to any Wellesley residential hall or excluded from full access to the benefits of any such residential hall, including services by residential staff, on the basis of shared ancestry. Wellesley must provide notice to its community of this change and train residential staff about such revised and/or new policies.
- b. Wellesley must conduct a full investigation of discriminatory conduct against Jewish students in connection with the residential staff's efforts to marginalize and exclude Jewish students on the basis of their shared ancestral identity and take all appropriate measures, including disciplinary matters such as suspension or termination, or selection of replacement residential assistants, that are recommended as a result of the investigation.

B. Wellesley must make sure that the University community is able to understand and recognize the type of anti-Semitic discrimination that targeted Jewish students in this instance and how contemporary anti-Semitism manifests. This should include:

- a. Incorporating the IHRA working definition of anti-Semitism, including its guiding examples, into the Wellesley's Policy Against Unlawful Discrimination, Harassment, and Retaliation ("*policy*"), consistent with Executive Order 13899 and the values of free speech and academic freedom; and
- b. Providing training on anti-Semitism to University administrators, faculty, students and staff – including mandatory training for residential staff – based upon Wellesley's revised *policy*. The training should familiarize residential staff, administrators and other members of the community with traditional as well as contemporary anti-Semitic stereotypes and conspiracy theories and their social and political functions, so that the campus community will be able to better identify and respond to anti-Semitic incidents in the future, particularly those that involve Jewish shared ancestry connected to Israel.

C. Wellesley must issue a statement denouncing anti-Semitism in all its forms and recognizing that Zionism is a key component of Jewish identity for many students at Wellesley.

Wellesley must issue a public statement condemning the anti-Semitic hostility, marginalization and exclusion in Munger Hall that targets members of Wellesley's Jewish community on the basis of their shared ancestry. In particular, Wellesley must make clear that the Munger Hall student residential staff's email impermissibly excludes Jewish students on the basis of their shared ancestral identity, and that vilifying, shunning, marginalizing or excluding Jewish or any students on the basis of identity is unacceptable conduct by a Residential Assistant. Wellesley's statement must recognize that for many Jewish students at Wellesley, Zionism is a key component of their religious, shared ancestral, and ethnic identity, and that harassing, demonizing, or excluding anyone on the basis of such identity is unacceptable. We strongly urge Wellesley to use or model its statement on the following language:

We condemn antisemitism in all its forms. We recognize that Zionism is a key component of the shared ancestral and ethnic identity of many Jewish Americans. Efforts to exclude Zionists and make these Wellesley students feel unwelcome and unsafe expressing this part of their Jewish ethnic identity is contrary to our college's basic values of mutual respect and inclusion. Our staff, including student employees in residential halls, are key leaders on our campus who are charged with fostering and facilitating community development and inclusion for all students, including Jewish students for whom Zionism is an integral component of Jewish identity. The anti-Semitic email sent by Munger Hall staff on October 19 sought to exclude Jewish students. This is unacceptable. Our college must be a place characterized by inclusivity and the free and open exchange of ideas.

Wellesley is committed to taking all necessary actions, including discipline where appropriate, to address and ameliorate discrimination and harassment based on shared ancestry or ethnic characteristics, including anti-Semitism that manifests as anti-Zionism. To that end, the College will utilize the IHRA Working Definition of anti-Semitism as required by law when investigating and responding to incidents of harassment and discrimination to determine whether they are motivated by anti-Semitic animus or bias. Wellesley encourages the Wellesley community to educate itself about the many manifestations of anti-Semitism by reading and studying the IHRA Definition and its contemporary examples.

VII. Conclusion

For the foregoing reasons, the Brandeis Center and Jewish on Campus strongly urge investigation into Wellesley's compliance with Title VI.

Respectfully Submitted,



Alyza D. Lewin
President



L. Rachel Lerman
General Counsel



Kenneth L. Marcus
Founder & Chairman



Benjamin Alkon
Staff Attorney