No. 25-2230
UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

PRESIDENT AND FELLOWS OF HARVARD COLLEGE
Plaintiff-Appellee,

v.

US DEPARTMENT OF HEALTH AND HUMAN SERVICES; NATIONAL INSTITUTES OF HEALTH; ROBERT F. KENNEDY, JR., in the official capacity as Secretary of the United States Department of Health and Human Services; US DEPARTMENT OF JUSTICE; TODD BLANCHE, in the official capacity as Acting Attorney General of the United States; US DEPARTMENT OF EDUCATION; LINDA M. MCMAHON, in the official capacity as Secretary of the United States Department of Education; US GENERAL SERVICES ADMINISTRATION; EDWARD FORST, in the official capacity as Administrator of the United States General Services Administration; US DEPARTMENT OF ENERGY; CHRISTOPHER A. WRIGHT, in the official capacity as Secretary of the United States Department of Energy; US NATIONAL SCIENCE FOUNDATION; BRIAN STONE, in the official capacity as Acting Director of the United States National Science Foundation; US DEPARTMENT OF DEFENSE; PETER B. HEGSETH, in the official capacity as Secretary of the United States Department of Defense; NATIONAL AERONAUTICS AND SPACE ADMINISTRATION; JARED ISAACMAN, in the official capacity as Administrator of the National Aeronautics and Space Administration; US DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; SCOTT TURNER, in the official capacity as Secretary of Housing and Urban Development; US DEPARTMENT OF AGRICULTURE; BROOKE L. ROLLINS, in the official capacity as Secretary of Agriculture,
Defendants-Appellants.

On Appeal From the U.S. District Court for the District of Massachusetts;
Judge Allison Burroughs, No. 25-CV-11048

Brief of Amici Curiae Jewish Council for Public Affairs, Religious Action Center of Reform Judaism, and National Council of Jewish Women Supporting Plaintiff-Appellee and Affirmance of the Judgment Below

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Fed. R. App. P. 26.1, amici are nonprofit organizations that have no parent corporation and do not issue stock.

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INTEREST OF AMICI CURIAE

Amici are dedicated to stopping antisemitism, fighting hate, and protecting the civil rights of the Jewish people to ensure that the Jewish diaspora can survive and thrive in a multicultural world.

The **Jewish Council for Public Affairs** is an 82-year-old nonpartisan organization that convenes and mobilizes the Jewish community and partners across communities to counter antisemitism and broader hate and extremism, protect democracy, and advance our shared values – recognizing that Jewish safety and inclusive democracy are inextricably linked.[1]

For more than six decades, the **Religious Action Center of Reform Judaism (RAC)** has worked to educate, inspire, and mobilize the Reform Jewish Movement to advocate for social justice, uphold democracy, and overcome hate. The RAC represents the values of the largest and most diverse Jewish Movement in North America to governments at all levels.

The **National Council of Jewish Women** (NCJW) is a 133-year-old Jewish feminist civil rights organization working for equity and justice for women, children, and families in the United States and Israel. Through the efforts of its

[1] No party's counsel has authored this brief in whole or in part. Neither party nor their counsel has contributed money that was intended to fund the preparation or submission of this brief. No persons other than the amici curiae, their members, or their counsel have contributed money or services that were intended to fund the preparation or submission of the brief.

250,000 grassroots advocates and 44 local sections, NCJW works to effect lasting social change at the local, state, and national level and focuses our advocacy efforts on demanding reproductive freedom, advancing economic opportunity, safeguarding civil rights, and fostering safer communities. NCJW approaches its work through the intersections of gender, economic, and racial justice to center those most impacted in a uniquely Jewish way.

All parties have consented to the filing of this amicus brief.

SUMMARY OF ARGUMENT

The American Jewish community is diverse in nearly every respect, with varied—and often opposing—views on politics, religious practice, and culture. Yet most Jewish Americans agree on two matters integral to this case: (1) antisemitism is on the rise in the United States, including on college campuses, and must be effectively addressed for Jews to be safe in this country, and (2) Defendants' actions against institutions of higher education are not the appropriate way to address antisemitism.[2] While the Defendants purport to punish Harvard in the name of fighting antisemitism and protecting Jewish students, amici ask this Court to listen to members of the American Jewish community as to how antisemitism on

[2] Jason DeRose, *Most American Jews say Trump is using antisemitism as an 'excuse' to silence free speech at universities*, NPR (Sept. 17, 2025), https://www.npr.org/2025/09/17/nx-s1-5543212/study-most-american-jews-dont-agree-with-trumps-tactics-for-combating-antisemitism.

college campuses should be addressed and how the Government's actions against Harvard have impacted them. The administration's dramatic overreach fails to address the root causes of antisemitism, will make Jewish students less safe, and runs afoul of the carefully crafted enforcement mechanisms under Title VI.

ARGUMENT

I. Antisemitism on College Campuses—Including Harvard's—Must be Effectively Addressed

Recent surveys and studies, including those conducted by Harvard, demonstrate that Jewish Americans are experiencing rising rates of antisemitism, including on college campuses. This includes harassment and intimidation, discrimination, alienation and isolation (including in the classroom), and direct acts of violence. Surveys of Jewish Americans conducted in 2025 found that 83% of Jewish college students reported having experienced or witnessed some form of antisemitism since October 7, 2023,[3] while 42% reported personally experiencing antisemitism while a college student.[4] A survey of the Harvard community before its recent reforms were implemented found that a majority of Jewish students did not feel at home at Harvard, and more than a quarter of Jewish students felt

[3] Anti-Defamation League, *83% of Jewish College Students Have Experienced or Witnessed Antisemitism Firsthand Since Oct. 7 Attack, Survey Finds* (Jan. 30, 2025), https://www.adl.org/resources/press-release/83-jewish-college-students-have-experienced-or-witnessed-antisemitism.

[4] American Jewish Committee, *The State of Antisemitism 2025,* WWW.AJC.ORG, https://www.ajc.org/AntisemitismReport2025 (last visited July 15, 2026).

physically unsafe.[5]

The fact is that there is a real rise in antisemitism, including on campuses and at Harvard. The question is whether the Government's approach will effectively address it. Years of research and study have identified the most effective ways to combat antisemitism: improving reporting of antisemitic incidents and enforcement of existing laws, expanding anti-bias education, protecting pluralism and core democratic norms (including constructive discourse and viewpoint diversity), and teaching media and digital literacy.[6] As Amy Spitalnick, CEO of amicus Jewish Council for Public Affairs testified to the U.S. Commission on Civil Rights in February 2026, combatting antisemitism

> requires serious, urgent action, including whole-of-government and whole-of-society approaches that recognize Jewish safety is inextricably linked with the rights and safety of all communities and our democracy . . . [ensuring Jewish safety] requires investing in broader societal resiliency to hate and extremism. In addition to hate crimes prevention, extremism prevention, non-profit security grants and much more, all of which have been dramatically cut over the past

[5] Harvard Presidential Task Force on Combating Antisemitism and Anti-Israel Bias, *Final Report* 120 (Apr. 29, 2025), https://www.harvard.edu/wp-content/uploads/2025/04/FINAL-Harvard-ASAIB-Report-4.29.25.pdf.

[6] Amy Spitalnick, U.S. Commission on Civil Rights Business Meeting 234 (Feb. 19, 2026), https://www.usccr.gov/files/2026-03/as-briefing-transcript.pdf; *Antisemitic Disruptions on Campus: Ensuring Safe Learning Environments for All Students Before the S. Comm. On Health, Educ., Labor and Pensions*, 119th Cong. (March 27, 2025) (written statement of David Saperstein, Director Emeritus of the Religious Action Center of Reform Judaism at 6), https://www.help.senate.gov/download/05/08/2025/saperstein-testimonypdf. Notably, the Harvard Task Force recommendations for addressing antisemitism incorporate some of these best practices. A. 13.

> year, this also must include protecting access to higher education, which has been so vital to Jewish success in this country.[7]

Harvard's own pre-reform data bears out that environments that allow discrimination against one minority group foster discrimination against other minority groups. The university's 2024-2025 survey of student feelings of safety and belonging revealed that both Jewish and Muslim students experienced high levels of feeling unsafe on campus.[8]

The existing Title VI enforcement process comports with these best practices. It requires an investigation to understand what has happened and whether there has been discrimination, attempts to work with the institution to obtain voluntary remediation of the discrimination before moving to more punitive measures, and applies equally to all forms of discrimination based on race, color, or national origin. 42 U.S.C. § 2000d, 34 C.F.R. §§ 100.7(c), 100.8(c). Neither the Government's demands of Harvard, including a requirement to hire more faculty and admit more students who align with the Government's views, nor depriving Harvard of research funding, meaningfully address the problem of antisemitism.

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[7] Spitalnick, *supra* note 6, at 232, 235; *See also Antisemitic Disruptions on Campus: Ensuring Safe Learning Environments for All Students Before the S. Comm. On Health, Educ., Labor and Pensions*, *supra* note 6, at 1 ("We cannot counter hate crimes against Jews unless we effectively address the spread of hate speech, hate crimes, dehumanization, demonization and discrimination against all those who are so victimized.").

[8] Harvard Presidential Task Force on Combating Antisemitism and Anti-Israel Bias, *supra* note 5, at 243.

II. The Government's Withdrawal of Federal Funding from Harvard Will Harm Jewish Students and Faculty and Compromise Their Safety

While the Government claims it terminated Harvard's grants as part of its "commitment to eradicating discrimination," Appellant Br. 15, these actions will directly and indirectly harm members of Harvard's Jewish community.

A. Identifying Jewish People as the Reason for Funding Cuts Will Create Backlash and Scapegoating of Jewish Students and Faculty

There is a long and shameful history of Jewish people being used as scapegoats and blamed for various ills that have befallen different societies.[9] Yet equally dangerous is the Government's apparent elevation of protection of Jews over concern for other groups. The use of Jewish people as an excuse to punish individuals or dismantle institutions puts Jews in danger.

Over 800 Jewish professors and students raised this concern in a 2025 open letter, writing "destroying universities in the name of Jews risks making Jews in particular less safe by setting them up to be scapegoats. Once it becomes clear how much knowledge, and how much human potential, has been lost in the name of combating antisemitism, Jews may be blamed."[10] A 2025 statement by over 550 American Jewish clergy similarly noted that "[d]efunding universities, threatening

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[9] Rachel Margolis, *Responding to Antisemitism: A Toolkit*, UNION FOR REFORM JUDAISM, (Dec. 7, 2023), https://urj.org/blog/responding-antisemitism-toolkit.
[10] *Open letter in response to federal funding cuts at Columbia*, https://docs.google.com/document/d/1EQ9_FL9psAwt-QohkPZo2BVa5sxj5QSJL44DSFYwYE0/mobilebasic (last visited July 16, 2026).

to deport student protesters, and using Jews as a justification for authoritarian tactics does not make us safer; it makes us more vulnerable."[11]

Multiple Jewish college students who recently testified before the U.S. Commission on Civil Rights, spoke specifically about how the Government's funding cuts and attacks on universities make them feel unsafe. Harvard senior Tova Kaplan testified: "When people see their school suffer and are told that it is because of antisemitism, even if us Jewish students don't actually have a say in what's happening, it can breed resentment and misunderstanding towards us."[12] American University senior Ellie Sweet, the granddaughter of Holocaust survivors, told the Commission "[h]eavy-handed attacks on my university do not make me feel safer. In fact, they further isolate me from my peers and create the misguided perception that my classmates and I asked for this crackdown."[13] Amici are deeply concerned that the Government's freezing of Harvard's funds will increase rather than decrease the antisemitism Jewish students experience.

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[11] J Street, *A Call To Moral Clarity: Rejecting Antisemitism As A Political Wedge* (April 28, 2025), https://jstreet.org/a-call-to-moral-clarity-rejecting-antisemitism-as-a-political-wedge/.
[12] Tova Kaplan, U.S. Commission on Civil Rights Business Meeting 169-170 (Feb. 19, 2026), https://www.usccr.gov/files/2026-03/as-briefing-transcript.pdf.
[13] Ellie Sweet, U.S. Commission on Civil Rights Business Meeting 200 (Feb. 19, 2026), https://www.usccr.gov/files/2026-03/as-briefing-transcript.pdf.

B. The Government's Funding Cuts Interfere with Jewish Harvard Employees' and Students' Educations and Careers

The district court found that the record in this case "does not reflect that Defendants considered if and how terminating certain grants would improve the situation for Jewish students." A. 53. The impact of these funding freezes is obvious: Terminating Harvard's tax-exempt status and cancelling federal funding and contracts kneecaps Harvard by undercutting its ability to conduct research, explore new academic frontiers, further the educational experience for students on campus, and provide life-changing career opportunities. This hurts Harvard's students, faculty, and staff, many of whom are Jewish.

As Harvard student Tova Kaplan told the U.S. Commission on Civil Rights, "Jewish students are part of our campus communities, not separate from them."[14] Those actions that negatively impact the Harvard community necessarily negatively impact its Jewish members as well. Another Harvard student, Sarah Silverman, told the U.S. Commission on Civil Rights,

> I am a student of science. . . . And I am here because I want to go into academic research in the United States. And I have felt that the administration's response to trying to combat anti-Semitism, has not taken Jewish students into account. . . . I have seen research proposals, research grants get cancelled. . . . I had a very difficult time trying to find a lab that would take me because all of, basically all of the School of Public Health's grants were cancelled in May.[15]

[14] Kaplan, *supra* note 12, at 169.
[15] Sarah Silverman, U.S. Commission on Civil Rights Business Meeting 209-210 (Feb. 19, 2026), https://www.usccr.gov/files/2026-03/as-briefing-transcript.pdf; *See*

The Government's funding cuts materially curtail the academic growth and professional opportunities of the very Jewish students, scholars, and researchers it claims to protect. Ms. Silverman, who has personally experienced antisemitism on campus, has asked the Government to "think about real people like [her] whose futures are on the line."[16]

III. The American Jewish Community Disagrees with the Government's Approach to Addressing Antisemitism at Harvard

While the American Jewish community is clear-eyed in its understanding of the grave problem that antisemitism poses on college campuses and throughout the country, most Jewish Americans disagree with the Government's punitive approach to addressing antisemitism at Harvard. Jewish organizations, clergy, students, faculty, and scholars have warned that sweeping funding cuts, ideological audits, and federal control over university governance will not meaningfully address antisemitism.

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also Steven Pinker, *Harvard Derangement Syndrome*, N.Y. TIMES (May 23, 2025), https://www.nytimes.com/2025/05/23/opinion/harvard-university-trump-administration.html?eafs_enabled=false ("[M]any practicing and aspiring scientists are Jewish, and [the administration's] funding embargo has them watching in horror as they are laid off, their labs are shut down or their dreams of a career in science go up in smoke.")

[16] Sarah F. Silverman, *I Faced Antisemitism at Harvard. Don't Destroy the University in my Name,* US NEWS (July 14, 2025), https://www.usnews.com/opinion/articles/2025-07-14/university-trump-jewish-students-harvard-antisemitism.

The Government's drastic actions against Harvard are sharply at odds with how most Jewish Americans view those actions. Although 72% of Jewish Americans are concerned about campus antisemitism, that same percentage believe that the federal government is using antisemitism as an "excuse" to punish universities.[17] That concern has been echoed by more than 550 American rabbis and cantors, who have warned that the fight against antisemitism must not be "co-opted for authoritarian ends" and that antisemitism cannot be allowed to become "a wedge issue, used to justify policies that target immigrants and other minorities, suppress free speech, or erode democratic norms."[18]

The Jewish American community overwhelmingly understands that Jewish safety and advancement in this country has been tied to strong academic and educational institutions, the rights and safety of all communities, and our democratic norms and institutions. That is why, in April 2025, a coalition of ten organizations representing a broad swath of American Jewry—including the Conservative, Reform, and Reconstructionist movements—issued a joint statement "rejecting the false choice between confronting antisemitism and upholding democracy."[19] In that statement the groups stated: "Universities have an obligation

[17] DeRose, *supra* note 2.
[18] J Street, *supra* note 11.
[19] Jewish Council for Public Affairs, *Broad Coalition of Mainstream Jewish Organizations Release Statement Rejecting False Choice Between Jewish Safety &*

to protect Jewish students, and the federal government has an important role to play in that effort; however, sweeping draconian funding cuts will weaken the free academic inquiry that strengthens democracy and society, rather than productively counter antisemitism on campus."[20]

Opposition to the Government's practices is pronounced within Harvard's own Jewish community, the people the Government claims to be trying to protect. In April 2025, soon after the Government began reviewing Harvard's federal funding, over 100 Harvard Jewish students signed on to a letter calling the administration's threats to pull university funding a misguided response to antisemitism concerns. The signatories described the Government's actions as a "crackdown" that would not protect them and warned that the proposed funding cuts would deeply harm their community.[21] In a March 2026 open letter from over 100 Harvard Jewish faculty and staff urging the Department of Justice to drop a recent lawsuit against Harvard alleging antisemitism, the signatories stated they stood "united in the belief that this lawsuit can only harm Harvard's Jewish community," while unequivocally rejecting the government's "false claim to act in

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Democracy (Apr. 15, 2025), https://jewishpublicaffairs.org/jewishcommunalstatement/press-release/.

[20] *Id.*

[21] Sebastian B. Connolly and Julia A. Karabolli, *Jewish Harvard Students Sign Open Letter Opposing Trump's Funding Threats*, HARV. CRIMSON (Apr. 17, 2025), https://www.thecrimson.com/article/2025/4/17/Jewish-students-letter-to-trump/.

[their] name during its yearlong assault on [Harvard]."[22] The *Harvard Crimson* noted that the open letter "marks a rare show of unity among faculty who have often clashed over Harvard's response to antisemitism complaints and campus protests."[23]

The gap between the Government's asserted purpose and the Jewish community's own experiences of its actions reinforces that the Government is not considering the experiences, expertise, or needs of the Jewish community it claims to want to protect. The wide breadth of opposition to the Government's policies among Jewish Americans is powerful evidence that those actions are not truly responsive to the Jewish community's needs.

CONCLUSION

Amici, Harvard, and the Government share the goal of effectively addressing antisemitism and ensuring that Harvard, and all colleges and universities, are welcoming to their Jewish and non-Jewish students alike. However, the Government should not act in the name of the American Jewish people without considering their perspectives and their concerns. There is widespread opposition among American Jews to the government's approach.

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[22] Abigail S. Gerstein and Amann S. Mahajan, *120 Harvard Jewish Affiliates Condemn Justice Department Antisemitism Lawsuit*, HARV. CRIMSON (March 26, 2026), https://www.thecrimson.com/article/2026/3/26/jewish-affiliates-blast-doj-lawsuit/.

[23] *Id*.

Instead, the existing Title VI enforcement mechanism, which federal agencies have been using for decades to successfully address discrimination at educational institutions, is the appropriate mechanism for addressing any complaints about antisemitism. The district court's ruling allows Harvard to continue the steps it has begun taking to successfully address antisemitism without harming the Jewish community in the process. Amici urge this Court to listen to the American Jewish community's perspectives set forth above, and to affirm the district court's ruling.

Dated: July 22, 2026

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 32(A)(7)(B)

Pursuant to Fed. R. App. P. 32(a)(5), I hereby certify that this brief uses 14-point Times New Roman, a proportionally spaced font. Pursuant to Fed. R. App. P. 32(a)(7)(B), I certify that the brief was prepared using Microsoft Word, and contains 2774 words, including all citations but exclusive of all certificates of counsel, the cover page, disclosure statement, table of contents, table of citations, and signature block, according to that system's word count function.

Date: July 22, 2026 /s/ Naomi R. Shatz

CERTIFICATE OF SERVICE

I, Naomi R. Shatz, hereby certify that I have served a copy of this Brief of Amici Curiae on all parties by virtue of filing this brief through this Court's ECF system, which will cause a copy to be distributed to all relevant parties.

Date: July 22, 2026 /s/ Naomi R. Shatz