

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

ALEXANDER KESTENBAUM and
STUDENTS AGAINST ANTISEMITISM,
INC.,

Plaintiffs,

v.

PRESIDENT AND FELLOWS OF
HARVARD COLLEGE,

Defendant.

Case No. 1:24-cv-10092-RGS

**DEFENDANT’S UNOPPOSED MOTION FOR LEAVE
TO FILE A REPLY MEMORANDUM IN SUPPORT OF
COMBINED MOTION TO DISMISS AND MOTION TO STRIKE**

Pursuant to Local Rule 7.1(b)(3), Defendant President and Fellows of Harvard College (“Harvard”) respectfully seeks leave to submit a 15-page Reply in support of its Combined Motion to Dismiss and Motion to Strike (Dkt. 35). Harvard is prepared to file its Reply by Monday, May 6, 2024. Undersigned counsel have conferred in good faith with counsel for Plaintiffs, who represent that they take no position on this request.

A Reply memorandum is necessary because in their Opposition and accompanying Declaration (Dkts. 43, 44), Plaintiffs make several unanticipated contentions and assertions of law and fact that require a response. For example, in response to Harvard’s arguments for dismissal under both Rule 12(b)(6) and Rule 12(b)(1), Plaintiffs rely heavily on allegations that were not pled and thus that Harvard could not have addressed in its opening memorandum, including the facts asserted in the Declaration of SAA Member 1. Plaintiffs also misrepresent one of Harvard’s central arguments for dismissal, claiming that Harvard believes the First Amendment prevents it from disciplining students or professors under Title VI. And Plaintiffs

misrepresent a key legal issue at which Harvard's motion is directed, misstating the breadth of the injunctive relief they seek and the legal principles that preclude them from obtaining such relief. Allowing Harvard to file this Reply will not cause delay in the consideration of these issues because Harvard will file its Reply within one week of today's date.

WHEREFORE, Harvard respectfully requests that the Court grant its motion for leave to file a Reply in support of its Combined Motion to Dismiss and Motion to Strike.

DATED: April 29, 2024

Respectfully Submitted,

PRESIDENT AND FELLOWS OF HARVARD
COLLEGE

By its attorneys,

/s/ Felicia H. Ellsworth

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LOCAL RULE 7.1 CERTIFICATION

In accordance with Local Rule 7.1(a), the undersigned hereby certifies that on April 27, 2024, counsel for Harvard conferred with Plaintiffs' counsel in a good faith attempt to resolve or narrow the issues involved in this motion, and that the parties did not reach an agreement.

/s/ Felicia H. Ellsworth

Felicia H. Ellsworth

CERTIFICATE OF SERVICE

I hereby certify that on April 29, 2024, I caused this document to be filed through the CM/ECF system, where it will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

/s/ Felicia H. Ellsworth

Felicia H. Ellsworth