BFA Statement on the Brandeis Settlement Agreement

March 30, 2026

On March 19, 2026, University of California (UC) Berkeley administrators announced[1] they had settled a Title VI and equal protection lawsuit brought against the campus and the UC Regents by the Louis D. Brandeis Center for Human Rights Under Law (hereafter Brandeis Settlement Agreement). The Brandeis Center is a partisan interest group (unaffiliated with Brandeis University) that has mounted legal challenges attempting to force adoption of the highly contentious International Holocaust Remembrance Alliance (IHRA) definition of antisemitism in universities across the country.

In April 2025, in a brief ruling,[2] Judge Donato of the US District Court for Northern California decided that there were plausible grounds for the Berkeley lawsuit to proceed to discovery. However, to date, where courts have considered the lawsuits by Brandeis or by other organizations, they have largely found that the speech in question was protected by the First Amendment and/or that universities had not violated student rights under Title VI.[3] In dismissing another case brought against the Massachusetts Institute of Technology, judges wrote, "Plaintiffs are entitled to their own interpretive lens equating anti-Zionism (as they define it) and antisemitism. But it is another matter altogether to insist that others must be bound by plaintiffs' view."[4] As of October 2025, at least nine such Title VI cases had been dismissed.[5] In short, it is not clear why the Regents decided to settle this case rather than defend their–and our–rights under law.

---

[1] UC Berkeley Public Affairs. 2026. "UC Berkeley's statement following Brandeis Center suit settlement". March 19. https://news.berkeley.edu/2026/03/19/uc-berkeleys-statement-following-brandeis-center-suit-settlement/

[2] The Louis D. Brandeis Center, et al. v. Regents Of The University Of California, et al. Order Re Dismissal, March 31, 2025. United States District Court Northern District of California. https://docs.justia.com/cases/federal/district-courts/california/candce/3:2023cv06133/421404/107

[3] AAUP and MESA. 2025. Discriminating Against Dissent: The Weaponization of Civil Rights Law to Repress Campus Speech on Palestine. *American Association of University Professors* and *Middle East Studies Association*. https://www.aaup.org/sites/default/files/2025-11/Discriminating-Against-Dissent_0.pdf

[4] Stand With Us Center For Legal Justice; Katerina Boukin; Marilyn Meyers V. Massachusetts Institute Of Technology. Order, October 21, 2025. US Courts of Appeal (first circuit). https://www.courthousenews.com/wp-content/uploads/2025/10/first-circuit-mit-gaza-protest-dismissal.pdf

[5] AAUP and MESA. 2025. Discriminating Against Dissent: The Weaponization of Civil Rights Law to Repress Campus Speech on Palestine. *American Association of University Professors* and *Middle East Studies Association*.

The result is an agreement that UC Berkeley is portraying as "an endorsement of the status quo"[6] and "an affirmation that the campus should continue to maintain its current policies and practices." In actual fact, the agreement goes well beyond the status quo. Both its substance and the process by which it was reached violate fundamental principles of academic freedom and shared governance. If implemented, it risks producing significant and potentially harmful consequences for the campus community.

- The Brandeis Settlement Agreement effectively **requires campus to embrace the IHRA definition of antisemitism, placing it at the heart of campus disciplinary processes.** Doing so violates academic freedom and First Amendment rights and explicitly rejects the Resolution on Academic Freedom[7] that the UC Berkeley Academic Senate overwhelmingly passed by 94.6% (370 in favor, 21 opposed) on April 22, 2025–which was subsequently transmitted to UCOP and the Regents.

- The Brandeis Settlement Agreement intrudes **into shared governance, in violation of the delegated rights and responsibilities of the UC Berkeley Academic Senate**. The Settlement charges the Chancellor's Advisory Committee on Jewish Life and Campus Climate (CAC) with a role reviewing all "educational offerings relating to Jewish history" and the power to make recommendations on leadership and curriculum relevant to this area. The CAC was not consulted on the terms of the agreement. This structural redesign pits members of the CAC–composed of faculty (senate and contingent), staff, students, community members, and alumni–against the Academic Senate, undermining the curricular authority of Senate faculty.

- **The Settlement calls for mandatory trainings of Office for the Prevention of Harassment & Discrimination (OPHD) staff, incoming students, faculty, lecturers, student organization leaders, and other members of our campus community, requiring that such trainings leverage the IHRA definition of antisemitism and its contemporary examples.** This will further entrench a chilling environment in which instructors and students are discouraged from discussing Israel, Palestine and its people, Iran, and other topics–undermining core principles of academic freedom and infringing upon First Amendment protections.

---

[6] Mello, F. March 26, 2026. 'Landmark' deal or no big deal? Inside UC Berkeley's $1 million antisemitism settlement. *Berkeleyside*. https://www.berkeleyside.org/2026/03/26/uc-berkeley-brandeis-center-antisemitism-settlement

[7] April 22, 2025. Resolution on Academic Freedom. *University of California Academic Senate*. https://academic-senate.berkeley.edu/sites/default/files/council-chair-president-re-berkeley-resolution-to-protect-acad-political-freedom.pdf

If you are concerned about the Brandeis settlement, we encourage you to:

- Talk with your Academic Senate representatives at UC Berkeley to raise your questions and concerns.
- Write to UC Berkeley Chancellor Rich Lyons and UC President James Milliken to raise your questions and concerns.
- Attend the Academic Senate Divisional Meeting on April 7 to express your concerns.

Annotated Analysis

1. The Brandeis Settlement Agreement places the IHRA definition of antisemitism at the center of campus disciplinary processes.

The Brandeis Settlement Agreement firmly entrenches the Brandeis Center's particular viewpoint in Berkeley's OPHD operations and decision-making, as well as within annual trainings required across the campus. This viewpoint centers on the highly contentious IHRA definition,[8] that defines antisemitism to include political criticism of the state of Israel. In entering into the agreement, the University in effect aligns policy and practice with a partisan political viewpoint. This is even though, for example, a Northern District Court judge[9] in December 2025 recognized that criticisms of the IHRA definition are "legitimate," even though numerous Jewish scholars and scholars working on Jewish studies have expressed concerns, and even though one author of the definition, Kenneth Stern, has said he regrets[10] how the definition is being used now.

UC Berkeley will "consider" the IHRA definition "whenever investigating or assessing claims of discrimination or harassment against Jews or Israeli individuals" (Section 15(c)). Any investigation that OPHD conducts will include reference to the applicability of the IHRA Definition, including its contemporary examples (some of which relate to the state of Israel and its policies)–effectively encouraging its use in deciding whether a complaint is upheld. If OPHD receives a complaint about IHRA-defined discrimination in academic courses, UC Berkeley must inform the Chancellor's Advisory Committee (CAC) on Jewish Life and Campus Climate, thus potentially exposing OPHD to external

[8] AAUP. 2022. Legislative Threats to Academic Freedom: Redefinitions of Antisemitism and Racism. https://www.aaup.org/sites/default/files/Bulletin2022Final-LegThreatstoAF_0.pdf

[9] Andrea Prichett, et al. v. Rob Bonta, et al. Order Denying Plaintiffs' Motion for a Preliminary Injunction, December 31, 2025. United States District Court Northern District of California. https://jweekly.com/wp-content/uploads/2025/12/2025-12-31-Dkt-72-Order-Denying-Plaintiffs-Motion-for-Preliminary-Injunction-1.pdf

[10] Press, Eyal. 2024. "The Problem with Defining Antisemitism." *New Yorker*, March 13. https://www.newyorker.com/news/persons-of-interest/the-problem-with-defining-antisemitism

influence for what ought to be a fully impartial investigation under federal law. What's more, Section 19(h) requires that "UC Berkeley shall not provide any amnesty to students, faculty, or staff who are arrested for unlawful behavior or cited for a violation of university policy," appearing to remove discretion from any decisionmaking body and violating right to due process.

UC Berkeley will "update" the OPHD website to describe how disciplinary processes evaluate Zionism as a "pretext for excluding Jews," going well beyond what the law currently requires. OPHD must hire (or train) a staff member with experience in "dealing with complaints of discrimination and harassment based on Jewish religion, shared ancestry, shared ethnicity, and/or Israeli national origin" who will handle or supervise any complaints on these grounds. All of this runs contrary to the BFA's ongoing work calling for a more transparent OPHD process that includes more faculty involvement. Moreover, Clause 18(d) requires OPHD and CSC staff to receive direct training from the Brandeis Center, using its materials, that will "include the IHRA Definition including its contemporary examples," most of which relate to the state of Israel.

18.d. Within the next two years, all current OPHD and CSC staff will participate at least once in training focused on recognizing and combating antisemitism and the IHRA Definition of antisemitism including its contemporary examples provided by Brandeis University's President's Initiative to Counter Antisemitism, the cost of which shall be covered by UC Berkeley. The training required by this subsection shall not exceed one business day. The training may occur in the Berkeley area if the cost of travel is covered by UC Berkeley. The training shall be mandatory.

Far from being contained solely to matters pertaining to Harassment and Discrimination, the IHRA definition, and crucially, its chilling contemporary examples, will be added to trainings for all incoming students, all student orientation and RSO leaders, all resident life assistants and staff, all graduate student instructors, all lecturers, and all faculty. This is effectively promoting a highly partisan position about Israeli policy and politics, not a legal standard. It invites campus community members to make a complaint if they feel faculty are criticizing this position.

The irony of using the IHRA definition is that faculty and students at UC Berkeley may freely criticize the United States, or any other nation-state in the world–including their foundational ideologies, and their implications today–but not Israel. Criticism of any other state will not be subjected to this level of surveillance. The embrace of the IHRA definition of antisemitism and its contemporary examples totally ignore decades of academic research and public debate about the nature of the ideology of Zionism and the state of Israel, including from the perspective of Palestinians. UC Berkeley, after all,

is home to many students and several faculty of Palestinian origin and heritage. Such students and faculty members were not consulted about the potential implications of adopting a controversial and deeply anti-Palestinian definition of antisemitism.

Will a UC Berkeley student from the occupied West Bank, where they live under military rule and have no rights of citizenship that Israeli settlers enjoy, be disciplined for daring to describe their own experience? How about an RSO that wishes to sponsor an event illuminating the history of struggles for the Palestinian Right of Return? More generally, how about a professor who wishes to critically explore Israeli impacts on agriculture, water, public health, or climate change in Palestine as part of a larger discussion in their classroom? Must an instructor fear being disciplined for giving students credit for reflecting on such topics?

In sum, the Brandeis Settlement Agreement makes the deeply contested IHRA definition of antisemitism and its cited contemporary examples–most of which relate to the state of Israel–the core of our disciplinary standards. The consequences for our educational mission are devastating.

2. The Brandeis Settlement Agreement Violates Shared Governance.

Clause 17 of the Brandeis Settlement Agreement formalizes a broad swath of responsibilities to the Chancellor's Advisory Committee (CAC) on Jewish Life and Campus Climate. Like all CACs, this is a non-senate body, appointed by the Chancellor and intended to advise the campus administration on matters within its charge. Its specific membership is opaque, not publicly available, and includes senate faculty, contingent faculty, students, staff, alumni, and community members. Although the CAC was not party to negotiations of the Brandeis Settlement Agreement, its members are deeply implicated in its prospective implementation.

The Brandeis Settlement Agreement requires this body:

- to be consulted by the campus administration on "the implementation of the [settlement's] commitments," including discipline.
- to receive information regarding specific OPHD complaints about academic courses, including "how the campus responded to the complaint."
- to "review the impact of [UCB]'s educational offerings relating to Jewish history on its Jewish and Israeli students," while ensuring the committee is provided with "such resources as necessary to perform this function." (The term "educational offerings" is very vague. The settlement is silent on what these resources constitute. Resources like time? funding? staffing? access to syllabi and assignments? access to bCourses? course evaluations?)

- to "produce a public written report with any recommendations to changes in leadership and curriculum relating to UC Berkeley's educational offerings on Jews and Jewish history."
- to receive "inquiries" from students "regarding the impacts of [UCB's] course offerings relating to Jews and Jewish history."

Setting aside the intent and academic freedom commitments of the individuals who serve on the Chancellor's Advisory Committee on Jewish Life and Campus Climate– including its leadership– ***this settlement appears to place the committee as such in a fundamental structural conflict with the Academic Senate***–the governing body responsible for reviewing, evaluating, and approving educational offerings. There is no other subject-matter specific committee at Berkeley with authority to review and recommend on curricula, "educational offerings" and "leadership." These curricular responsibilities are what departmental and college/school curriculum committees, department chairs, and the senate's Committee on Courses of Instruction are tasked with doing routinely.

Requiring an advisory body appointed by the Chancellor—whose membership includes alumni and community members alongside Senate faculty—to review and then weigh in publicly on curricular matters, and even on personnel matters like "leadership," substantially undermines not only our academic freedom, but also the principle and practice of shared governance. It establishes a deeply troubling precedent, one that the CAC itself did not seek, and places the committee in an untenable position vis-a-vis campus institutions and political pressures. It also creates a clear risk of viewpoint discrimination in the oversight of material "relating to Jewish History." Yet, in their amended complaint,[11] the Brandeis Center makes no mention of curricular or classroom concerns. Its inclusion in this settlement therefore warrants careful scrutiny.

Pairing oversight responsibilities with an invitation for students to "inquire" with the CAC about course content—now coupled with mandatory trainings incorporating IHRA's controversial formulations, and a newly defined reporting relationship between the CAC and OPHD—creates conditions under which conflicts arising between students, instructors, the CAC, the senate, and administration are not only possible but likely.

Finally, while adoption or "consideration" of the IHRA definition of antisemitism creates a chilling effect, Clause 22 of the Brandeis Settlement Agreement goes further by directly impinging upon curricular decision-making. It makes explicit, legally binding

[11] The Louis D. Brandeis Center, Inc. v. Regents of the University of California. Amended Complaint — Document #62. https://www.courtlistener.com/docket/68038231/62/the-louis-d-brandeis-center-inc-v-regents-of-the-university-of/

commitments to maintain specific academic partnerships and programs in Israel, including a joint degree program with Tel Aviv University, a course taught by a named faculty member, and an internship program in Haifa. Decisions about whether academic programs continue properly reside within the academic units that offer them. By embedding these commitments in a settlement agreement, the University effectively confers undue influence on a highly partisan private advocacy organization.

3. The Brandeis Settlement Agreement Violates Academic Freedom and First Amendment protections.

In a special meeting of the Berkeley Division on April 22, 2025, senate faculty overwhelmingly voted to reject the IHRA definition of antisemitism, "…which can be used in ways inconsistent with both academic freedom and freedom of speech and assembly." The Resolution to Protect Academic and Political Freedom[12] states that such adoption would "require an abandonment of [the University's] academic freedom and violation of its members' legal rights." These concerns are not merely hypothetical; they have been borne out on other university campuses. Following Columbia University's settlement with the Trump administration, which also formalized the "consideration" of the IHRA definition, the pre-eminent historian of Palestine Rashid Khalidi withdrew[13] from teaching his popular course on Modern Middle East History; so too did renowned Holocaust scholar Marianne Hirsch. In Texas, following Governor Greg Abbott's 2024 executive order directing public universities to apply the IHRA definition in regulating campus speech, a federal district court found that the policy was likely unconstitutional under the First Amendment.[14] The court emphasized that the order appeared to impose impermissible viewpoint-based restrictions on protected expression and risked chilling lawful speech in academic settings.

Collectively, the use of the IHRA definition, its entrenchment in UC Berkeley's disciplinary processes, and its pervasive presence in mandatory trainings all create a chilling environment on our campus, even before they are fully implemented. This chilling environment is only reinforced by the requirement in Clause 20 that our campus

---

[12] April 22, 2025. Resolution on Academic Freedom. *University of California Academic Senate*. https://academic-senate.berkeley.edu/sites/default/files/council-chair-president-re-berkeley-resolution-to-protect-acad-political-freedom.pdf

[13] Khalid, Rashid. 2025. "I spent decades at Columbia. I'm withdrawing my fall course due to its deal with Trump". The Guardian, August 1. https://www.theguardian.com/commentisfree/2025/aug/01/columbia-historian-rashid-khalidi-open-letter

[14] Students For Justice in Palestine at the University of Houston, et al. v. Greg Abbot, Governor, et al. Order, October 28, 2024. United States District Court, Western District of Texas, Austin Division. https://storage.courtlistener.com/recap/gov.uscourts.txwd.1172787806/gov.uscourts.txwd.1172787806.62.0.pdf

must remind all faculty and all GSIs at the start of every semester (not only the year) about Regents Policy 2301. This reminder is to be sent by the Chancellor (or EVP) and "shall provide examples of conduct that violates that policy, including at least one example involving Israel-related conflicts." Such a reference explicitly suggests a desire to discourage discussion of Palestine and other Israel-related conflicts in the classroom. Our campus has already experienced one such case, in which lecturer Peyrin Kao was disciplined for classroom and extramural speech.

In 1961, UC President Clark Kerr declared: “The University is not engaged in making ideas safe for students. It is engaged in making students safe for ideas. Thus it permits the freest expression of views before students, trusting to their good sense in passing judgment on those views."[15] By settling with the Brandeis Center, the University of California, Berkeley and the Regents have materially compromised foundational principles of the University of California’s academic mission. In doing so, they contravene core protections of academic freedom and shared governance, while effectively ceding institutional authority over academic matters to an external, partisan actor.

[15] Berdahl, Robert. 2004. Clark Kerr Memorial, February 20. https://chancellor.berkeley.edu/chancellors/berdahl/speeches/clark-kerr-memorial