

**COVINGTON**



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VIA EMAIL

Craig Trainor, Esq.  
Acting Assistant Secretary for Civil Rights  
U.S. Department of Education  
Office for Civil Rights  
Lyndon Baines Johnson Department of Education Building  
400 Maryland Avenue S.W.  
Washington, D.C. 20202  
Email: [OCR.DC@ed.gov](mailto:OCR.DC@ed.gov)

Sterling Thomas, Regional Director  
Atlanta Office  
Office for Civil Rights  
U.S. Department of Education  
61 Forsyth Street S.W., Suite 19T10  
Atlanta, GA 30303  
Email: [OCR.Atlanta@ed.gov](mailto:OCR.Atlanta@ed.gov)

**Re: Civil Rights Violations at the Baltimore City Public Schools (“BCPS”)**

Dear Assistant Secretary Trainor and Director Thomas:

**I. INTRODUCTION**

The Anti-Defamation League (“ADL”)<sup>1</sup>, represented by Covington & Burling LLP (“Covington”), submits this Complaint on behalf of itself and Jewish students and parents in the Baltimore City Public Schools District (“BCPS” or “the district”). BCPS has knowingly permitted its schools to become hostile environments for Jewish students, who make up a small percentage of the student body. Jewish students face egregious and persistent discrimination and harassment by teachers in classrooms and by other students on campus and outside of school based on their shared Jewish ancestry and ethnicity. BCPS has permitted this conduct to increase in frequency and severity and has failed to promptly and effectively address discrimination and harassment in violation of its legal obligations under Title VI of the Civil Rights Act of 1964 (“Title VI”).<sup>2</sup>

For example, we have obtained evidence that BCPS continues to employ a teacher despite knowing that he threatened to “go all Nazi” on the students in his class and personally directed Nazi salutes towards a Jewish student. BCPS has also permitted non-Jewish students to relentlessly bully Jewish classmates by, among other things, regularly referring to Nazis and Nazism, performing Nazi salutes on the playground, and telling Jewish students that “6 million [Jews] was not enough,” that “all Jews should die,” and that “we should call Hamas and have

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<sup>1</sup> ADL is a leading anti-hate organization committed to stopping the defamation of the Jewish people and securing justice and fair treatment to all.

<sup>2</sup> See 42 U.S.C. § 2000d *et seq.*; see also 34 C.F.R. §§ 100.3(b)(1)(i), (iv), (vi).

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them come here.” Some of these students even lamented the “failure of the Nazis” to kill more Jews. BCPS’ failure to explicitly condemn and effectively address antisemitism in its schools, despite numerous complaints, left Jewish students isolated from their peers on campus and withdrawn from school activities.

This type of antisemitic conduct is sadly not new to BCPS. For years, malicious actors have routinely graffitied school property with swastikas, with little to no consequence to the wrongdoers, at several of the few public schools in the district with Jewish students. But the October 7, 2023, Hamas attacks on Israeli civilians—the largest slaughter of Jewish people since the Holocaust—has led to an “unprecedented wave of vile anti-Semitic discrimination”<sup>3</sup> against Jewish students across the country, including in Baltimore City Public Schools. Incidents of antisemitism generally have risen 227% in Maryland since 2022, and Maryland ranks third in the nation for the number of school-based incidents.<sup>4</sup> Since October 7, non-Jewish students in Baltimore routinely have accused Jewish students of committing acts that were perpetrated *against* Jews during the Holocaust. Blaming Jewish students for Palestinian suffering, their peers have labeled them as “fascists” and “Nazis” and greeted them with the traditional Nazi salute. As a result, Jewish students in Baltimore have been isolated from their peers, teachers, and administrators, and deprived of critical educational and social opportunities.

Parents of Jewish students in Baltimore have pleaded repeatedly with BCPS to take decisive action to stop the harassment of and discrimination against their Jewish children. Their pleas have been ignored. Jewish students and parents have filed more than a dozen reports with BCPS schools of antisemitism including with respect to the incidents above. In each case, the schools have labeled these weighty allegations as “inconclusive” and appear to have taken no action against the perpetrators. Jewish parents also have asked repeatedly for educational programming for students on antisemitism and the Holocaust to help combat the persistent antisemitism at Baltimore schools. BCPS has ignored their requests.

BCPS’ failure to stop antisemitic harassment and discrimination has created a pervasive hostile environment where Jewish students are denied equal access to opportunities and forced to choose between isolation from their peers or concealing their Jewish identity. Accordingly, ADL respectfully requests that the Office for Civil Rights (“OCR”) initiate an investigation of BCPS, a recipient of federal financial assistance, for violations of Title VI of the Civil Rights Act of 1964 and its implementing regulations, based on Jewish shared ancestry discrimination. ADL further requests mediation pursuant to Section 201(a) of OCR’s Case Processing Manual, to be followed by an investigation if the mediation is not successful.

## **II. STATEMENT OF FACTS**

BCPS’ small Jewish student population has faced repeated instances of antisemitic conduct by their teachers and have been bullied and harassed by their peers. These incidents have occurred over several years and have grown more numerous since October 7, 2023. Parents and students have filed more than a dozen complaints with the schools and district. But the district has failed to take action to address this hostile environment. Instead of removing the antisemitism from classrooms and school hallways, the district has placed the onus on Jewish students to remove

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<sup>3</sup> See Exec. Order No. 14188, Additional Measures to Combat Anti-Semitism, 90 Fed. Reg. 8847 (Jan. 29, 2025), <https://www.federalregister.gov/executive-order/14188> (“EO 14188”), § 1.

<sup>4</sup> ADL Audit of Antisemitic Incidents 2024, available at <https://www.adl.org/resources/report/audit-antisemitic-incidents-2024>.

themselves from school situations in which they may encounter antisemitism. Moreover, Jewish students comprise a particularly small minority in BCPS schools, which heightens their fears of speaking out against antisemitism as well as the acute sense of isolation felt by Jewish students who have been targeted for bullying on the basis of their shared ancestry.

### **A. Antisemitic Harassment by a Bard High School Teacher**

One BCPS teacher's antisemitic conduct became impossible to ignore in early 2025, when he directed multiple Nazi salutes at the sole Jewish student in his class – though it was far from his first antisemitic act. For more than two years, Student A has faced antisemitic harassment from [REDACTED], a teacher at Bard High School (“Bard”).

#### **1. Teacher's Nazi Salutes in Class**

On January 23, 2025, during a junior-year English seminar class discussion on Shakespeare, [REDACTED] performed a Nazi salute three times in a single class. He later admitted to district administrators that he directed the Nazi salutes at Student A—the sole Jewish student in the class. When Student A approached [REDACTED] after class and told him that Nazi salutes are harmful and make students deeply uncomfortable, he responded that “it is ok [for him] to do it because it does not cause anybody harm” and that Student A “cannot sanitize his teachings.”<sup>5</sup> While Student A was reporting this incident to [REDACTED] advisor, [REDACTED] entered the room with another student and suggested to Student A, who was also enrolled in his social justice seminar, that “[REDACTED] does not belong in [this] class because they will be discussing the Israel-Palestine conflict.”<sup>6</sup> Student A's school advisor offered to accompany [REDACTED] to the principal's office to file a report, which [REDACTED] did. The principal then referred the complaint to BCPS.

The next day, [REDACTED] announced to his class that he would be showing “American History X” in class, and that Student A particularly ought to be prepared because “there would be Nazis and antisemitism in the film.”<sup>7</sup> [REDACTED] also referred to Student A's complaint about his use of the Nazi salute to students in other classes that he taught, stating that he could not perform the Nazi salute in their classes because Student A had reported him.<sup>8</sup> At the suggestion of the principal, Student A dropped [REDACTED] classes with [REDACTED].

#### **2. BCPS' Untimely Response to Classroom Nazi Salutes**

As noted above, on January 23, 2025, Student A filed a report of the Nazi salute incident with the principal. The principal then notified Student A's mother (“Parent A”) that BCPS would investigate. District policy requires that reports of alleged discrimination be treated on an urgent basis: for example, the BCPS Department of Fair Practices and Compliance is required to contact a complainant within one day of receiving a report of alleged discrimination.<sup>9</sup> But Parent

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<sup>5</sup> Exhibit (“Ex.”) A, February 13, 2025, Letter from [REDACTED] to [REDACTED].

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> Ex. B, BCPS, Policy on Reporting and Investigating Discrimination § II.B.2.a., available at [https://go.boarddocs.com/mabe/bcpss/Board.nsf/files/DACUY97E4CED/\\$file/Regulation%20JBA-RA%20-%20Reporting%20and%20Investigating%20Discrimination%20-%20Students-%20FINAL-%2010.8.2024.pdf](https://go.boarddocs.com/mabe/bcpss/Board.nsf/files/DACUY97E4CED/$file/Regulation%20JBA-RA%20-%20Reporting%20and%20Investigating%20Discrimination%20-%20Students-%20FINAL-%2010.8.2024.pdf).

A heard nothing until she repeatedly called BCPS and, on January 29, 2025, followed up by email.<sup>10</sup> Finally, on February 6, 2025, BCPS' [REDACTED], notified Parent A that BCPS had referred the complaint to the Department of Fair Practices for a formal investigation.<sup>11</sup> BCPS sat on Student A's complaint for almost three weeks before initiating an investigation on February 11.<sup>12</sup>

It ultimately took more than two months from the time Student A filed [REDACTED] complaint for BCPS to complete its investigation on March 28, 2025.<sup>13</sup> BCPS' investigation substantiated Student A's allegations that [REDACTED] "made inflammatory gestures associated with the Nazi Party while teaching his assigned course and singled out a specific student during instruction due to the student's religious background."<sup>14</sup> [REDACTED] informed Student A and Parent A that during his March 6 investigation interview, [REDACTED] admitted that he singled out Student A during instruction and directed the Nazi salute at [REDACTED].

### **3. BCPS Failed to Follow BCPS Policy and Address and Remediate the Discrimination**

Despite formally initiating an investigation, BCPS slow-walked its progress. Parent A had to follow up on more than five occasions<sup>15</sup> during the investigation to request status updates.<sup>16</sup> During the course of this multi-week investigation and even after its conclusion, [REDACTED] repeatedly spoke about Student A's complaint with other students—in clear violation of district policy requiring that the district take reasonable steps to protect the confidentiality and privacy of the parties and despite these violations being reported to the district.<sup>17</sup> For example, in the middle of the investigation, on February 24, Parent A reported to BCPS that [REDACTED] informed his students about the investigation and discussed it with them.<sup>18</sup> After the investigation

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<sup>10</sup> Ex. C, January 29, 2025, Email from [REDACTED] to [REDACTED].

<sup>11</sup> Ex. D, February 6, 2025, Email from [REDACTED] to [REDACTED].

<sup>12</sup> Ex. E, February 11, 2025, Email from [REDACTED] to [REDACTED].

<sup>13</sup> Ex. F, March 28, 2025, Email from [REDACTED] to [REDACTED]; Ex. G, March 28, 2025, Email from [REDACTED] to [REDACTED]. District policy requires that the BCPS Department of Fair Practices respond promptly, efficiently, and impartially to reports of alleged discrimination in accordance with this Administrative Regulation. *See* Ex. B, BCPS, Policy on Reporting and Investigating Discrimination § II.B.1. It is expected that the grievance process will be concluded through the adjudication phase within 45 calendar days of filing the complaint. *See id.* at § II.F.1.

<sup>14</sup> Ex. G, March 28, 2025, Email from [REDACTED] to [REDACTED].

<sup>15</sup> Ex. H, March 4, 2025, Email from [REDACTED] to [REDACTED]; Ex. I, March 19, 2025, Email from [REDACTED] to [REDACTED]; Ex. J, March 21, 2025, Email from [REDACTED] to [REDACTED]; Ex. K, March 24, 2025, Email from [REDACTED] to [REDACTED]; Ex. F, March 28, 2025, Email from [REDACTED] to [REDACTED].

<sup>16</sup> District policy requires that the Department of Fair Practices and Compliance make reasonable efforts to keep the complainant and respondent apprised of progress during any period of delay. Ex. B, BCPS, Policy on Reporting and Investigating Discrimination § II.F.3.

<sup>17</sup> BCPS, Nondiscrimination – Students Policy § III.C.9, *available at* [https://go.boarddocs.com/mabe/bcps/Board.nsf/files/DACVMZ817C9A/\\$file/Policy%20JBA%20-%20Nondiscrimination%20-%20Students%20-FINAL%20-%20Revised%2010.8.2024.pdf](https://go.boarddocs.com/mabe/bcps/Board.nsf/files/DACVMZ817C9A/$file/Policy%20JBA%20-%20Nondiscrimination%20-%20Students%20-FINAL%20-%20Revised%2010.8.2024.pdf); *see also* Ex. B, BCPS, Policy on Reporting and Investigating Discrimination § II.N (prohibiting retaliation for reporting discrimination or initiating or participating in the complaint resolution process).

<sup>18</sup> Ex. L, February 25, 2025, Emails between [REDACTED] and [REDACTED].

concluded, █████ continued to discuss the issues raised in Student A’s complaint with other students, including asking another Jewish student on April 1, 2025 if there would be a problem if he used the Nazi salute in class.<sup>19</sup> On yet another occasion, █████ said to students in his class that he “hope[s] someone isn’t going to report [him] like [he] got reported for the Nazi salute.”

Several students reported many of these incidents to Student A, leading one student to ask Student A “did you really leave that class because of the Nazi salute?” Knowing that █████ was speaking about the incident and investigation with other students made Student A “exponentially more uncomfortable in the hallways and at school in general,”<sup>20</sup> which Parent A reported to the school. As a result, Student A avoided █████ and at times felt too intimidated to walk through the school’s hallways alone. Despite reporting this to BCPS, upon information and belief, BCPS took no steps to address █████ speaking to Student A’s peers about █████ complaint and to prevent its recurrence, nor did BCPS discipline █████ for breaching his confidentiality obligations under district policy.<sup>21</sup>

More than two months after Student A’s January 23, 2025 report about the incident was referred to BCPS, on March 28, 2025, BCPS finally notified Parent A of the outcome of the investigation. BCPS stated only that it had “substantiated” Student A’s allegations<sup>22</sup>—even though BCPS policy required that BCPS provide specific information about the outcome of the investigation and remediation of the discrimination.<sup>23</sup>

Upon information and belief, BCPS failed to take any of the following steps required by its own policies:

- Taking specific actions to end the discrimination and prevent its reoccurrence, including imposing disciplinary consequences on the respondent and providing remedies for Student A, as well as to the broader student population and City Schools community.<sup>24</sup>
- Holding separate conferences with the complainant and respondent within two weeks of the conclusion of the investigation to determine whether the discrimination has continued and whether additional consequences need to be implemented.<sup>25</sup>
- Providing a written determination to Parent A that included (1) the rationale for the determination whether discrimination occurred; (2) a recommendation on disciplinary consequences to be referred to the appropriate City Schools offices for further action if necessary; (3) whether remedies would be provided to Student A; and (4) other notices

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<sup>19</sup> Ex. M, April 1, 2025, Email from █████ to █████, █████.

<sup>20</sup> *Id.*

<sup>21</sup> BCPS, Nondiscrimination – Students Policy §III.C.9; *see also* Ex. B, BCPS, Policy on Reporting and Investigating Discrimination § II.N.

<sup>22</sup> Ex. G, March 28, 2025, Email from █████ to █████.

<sup>23</sup> Ex. B, BCPS, Policy on Reporting and Investigating Discrimination § II.J.3.c.

<sup>24</sup> *Id.* at § II.J.3.b.ii.

<sup>25</sup> *Id.* at § II.K.2.g.

that are required to accompany the decision under state law, such as when the decision-maker recommends suspension/dismissal of an employee.<sup>26</sup>

District policy also requires that, “based on the nature and severity of the offense,” the employee *will be* subject to appropriate consequences such as counseling or training regarding discrimination; transfer to another school, class, or office; and suspension or termination of employment.<sup>27</sup>

Despite substantiating Student A's report of antisemitic discrimination, upon information and belief, BCPS has failed to take any disciplinary action against ██████, who continues to serve on the ██████ Faculty at Bard and, astonishingly, as the Assistant Dean ██████.<sup>28</sup> Moreover, the harassment that Subject A has been subject to has continued unabated—even after ██████ was effectively forced out of ██████ courses.

#### 4. BCPS Was on Notice of ██████ Antisemitic Harassment of Students Years Earlier

BCPS' failure to appropriately respond to ██████ Nazi salutes and follow-on harassment of Student A is particularly alarming given that the district was aware as early as September 2022 of antisemitic classroom conduct by ██████. On September 6, 2022, Parent A reported to Bard's principal an incident that had recently occurred in Student A's then-freshman-year class with ██████. While students were misbehaving, ██████ said to the class "I'm about to go all Nazi on you."<sup>29</sup>

Though the principal assured Parent A that the matter would be addressed, the only action that the school took was to convene a meeting with Student A, Parent A, the vice-principal, and ██████ to discuss the incident. During that meeting, ██████ told Student A and Parent A that he did not understand why his comment had offended Student A. Even after Parent A explained to ██████ that his statement invoked the threat of genocide and violence toward Jewish people, ██████ continued to express disbelief that his classroom threat “I’m about to go all Nazi on you” was harmful to a Jewish student. And while he acknowledged that he “maybe shouldn’t have said that,” ██████ never apologized to Student A. Upon information and belief, BCPS took no further action to address ██████ conduct, setting the stage for ██████ performance of Nazi salutes in January 2025.

## B. Antisemitic Bullying Incidents at BCPS Schools

The district's failures to protect Jewish students from antisemitic harassment extend well beyond a single teacher or high school and provide critical context to its inadequate response to ██████ Nazi salutes. Since October 7, 2023, BCPS has done little to prevent or address students bullying their Jewish peers. In this period, non-Jewish students bullied Jewish classmates in a group text-message thread, repeatedly made Nazi salutes on school campuses in front of Jewish students, told Jewish students that "6 million [Jews] was not enough," "all Jews

<sup>26</sup> *Id.* at § II.J.3.c.

<sup>27</sup> *Id.* at § II.K.2.c.

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<sup>29</sup> Ex. N, September 6, 2022, Email from [REDACTED] to [REDACTED].

should die,” and “we should call Hamas and have them come here,” and labelled Jewish students as “Nazis.”

When confronted with numerous complaints about these overtly antisemitic incidents, BCPS schools in each case hid behind findings that the allegations were “inconclusive” instead of conducting a more thorough investigation, disciplining the bullies and harassers, or acknowledging the disturbing pattern that was emerging. Upon information and belief, BCPS schools have taken no meaningful steps to address the bullying and antisemitic harassment of Jewish students by other students and have failed to prevent recurrence of the antisemitic incidents. As a result, Jewish students feel isolated from their peers, have withdrawn from classroom discussions, and have felt the need to hide or minimize their Jewish identity while at school.

### **1. Antisemitic Bullying of Jewish Students at the Mount Washington School**

On or around January 14, 2024, Student B, [REDACTED] and Student C, then eighth-grade students at Mt. Washington School, an elementary and middle school, received antisemitic text messages in a group thread that included 10 of their classmates. These text messages included one in which a student, “Bully 1,” linked to an online quiz titled “Zionist or Nazi? Who Said This?” and asked other students to fill it out and share their scores.<sup>30</sup> While some of the students in the thread called out Bully 1 for [REDACTED] texts, Bully 1 continued [REDACTED] antisemitic screed and further texted “[Z]ionism is fascism for liberals,” “you can be a fascist and have friends, zionists make that clear,” “Jewish states are bad,” and “you blow up refugee camps for instating a jewish state.”<sup>31</sup>

The next day, Student B’s parent reported these messages to Principal Lisa Brown and Assistant Principal Michael Johnson, noting that Student B was hesitant to return to school because [REDACTED] was unsure if school remained safe for [REDACTED].<sup>32</sup> On January 16, 2024, Student C’s parent (“Parent C”) also reported these text messages to Principal Brown, noting that “this [was] not the first time such [antisemitic] statements have been made, nor [was] it the first time at least one of these students [Bully 1] has said unacceptable things about the Holocaust, Israel, and other groups of people this year or in prior years.”<sup>33</sup> And on January 17, 2024, both Student B’s parent and Student C’s parent separately shared screenshots of some of these text messages with Principal Brown.<sup>34</sup> In her email, Parent C reiterated her request for “educational support in the school to address these statements and behaviors and to help the students understand the harm that comes from their words.”<sup>35</sup> Parent C “urg[ed]” Mt. Washington School to “[b]ring in experts

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<sup>30</sup> Ex. O, January 14, 2024, student text message thread. [REDACTED]

[REDACTED] Upon information and belief, the “Zionist or Nazi? Who Said This?” quiz can be found online at [https://docs.google.com/forms/d/e/1FAIpQLSd1c-56yYGTJNIt\\_GjUB-th5C8M4SKapOibN8vsmicakWNCA/viewform](https://docs.google.com/forms/d/e/1FAIpQLSd1c-56yYGTJNIt_GjUB-th5C8M4SKapOibN8vsmicakWNCA/viewform).

<sup>31</sup> Ex. P, January 17, 2024, Email from [REDACTED] to L. Brown.

<sup>32</sup> Ex. Q, January 15, 2024, Email from [REDACTED] to L. Brown, M. Johnson.

<sup>33</sup> Ex. R, January 16, 2024, Email from [REDACTED] to L. Brown, M. Johnson.

<sup>34</sup> Ex. P, January 17, 2024, Email from [REDACTED] to L. Brown; Ex. S, January 17, 2024, Email from [REDACTED] to L. Brown.

<sup>35</sup> Ex. S, January 17, 2024, Email from [REDACTED] to L. Brown.



to speak and work with the middle schoolers about antisemitism” and to “[r]each out directly to the parents of the student [Bully 1] who shared the Zionism or Nazism quiz.”<sup>36</sup>

Student B subsequently filled out a district bullying form related to these text messages. In response, Mt. Washington School organized a “restorative justice” circle with Bully 1 and [REDACTED] parent to discuss these text messages. This “restorative justice” circle, which did not include two of the students (“Bully 2” and “Bully 3”) who had participated in the text chain and who had engaged in other bullying of Students B and C,<sup>37</sup> failed to address and remediate the bullying.

As a result, targeted bullying of Students B and C escalated. Bully 1 and Bully 2 continued to make antisemitic comments directed to Students B and C. For example, on March 4, 2024, Student B’s parent reported to Principal Brown that Bully 1 and Bully 2 “joked” to Student B that a delegation of Jewish community members who recently returned from Israel should be “sen[t] [REDACTED] on a mission [to Israel] to get blown up” by Hamas.<sup>38</sup> Student B’s parent filled out another district bullying form, yet, upon information and belief, the school took no action to halt the bullying. In addition, Bully 1 regularly attempted to provoke Student C and interrupt [REDACTED] classroom experience by labeling Israel a colonizing and fascist state during class and placing blame on Student C for the actions of the Israeli government. On one occasion, Student C felt compelled to remove [REDACTED] from class in the middle of an examination in order to focus.

Bully 1 and Bully 2 continued to harass Students B and C throughout that Spring semester by directing Nazi salutes on an almost daily basis at Students B and C on school grounds and threatening Student B with comments like “all Jews should die” and “we should call Hamas and have them come here,” and lamenting the “failure of the Nazis.”<sup>39</sup> Again, Student B’s parent filled out district bullying forms related to these incidents. And again, upon information and belief, the school took no action to discipline the bullies. Instead, each time, the school determined that the allegations were “inconclusive” and hid behind that finding as justification for failing to appropriately address and remediate the persistent bullying.

Student B also faced antisemitic bullying by other students at Mt. Washington School. On February 23, 2024, an unknown student approached Student B in the hallway and asked [REDACTED] why [REDACTED] supported Israel. When Student B did not respond, the student said to Student B that “6 million [Jews] was not enough.”<sup>40</sup> Student B’s parent immediately informed Principal Brown and Assistant Principal Johnson and said that Student B asked to be picked up early because [REDACTED] was so distressed by the incident that [REDACTED] was unable to focus on schoolwork. Student B’s parent, once again, filled out a district bullying form.<sup>41</sup> And once again, the school found the allegations to be “inconclusive.”

Rather than address these incidents, the school placed the onus on Student B to change [REDACTED] behavior to avoid the bullies. On March 12, 2025, Mt. Washington School informed Student B

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<sup>36</sup> Ex. R, January 16, 2024, Email from [REDACTED] to L. Brown, M. Johnson.

<sup>37</sup> For example, shortly after October 7, 2023, Bully 2 told Student B that [REDACTED] was “responsible for 70 years of Palestinian suffering.”

<sup>38</sup> Ex. T, March 4, 2024, Email from [REDACTED] to L. Brown.

<sup>39</sup> Ex. U, March 7, 2024, Email from [REDACTED] to BCPS Ombudsman.

<sup>40</sup> Ex. V, February 27, 2024 – May 2, 2024, Email Exchange Between [REDACTED] and Mt. Washington School Administrators.

<sup>41</sup> Ex. W, February 23, 2024, Email from [REDACTED] to L. Brown, M. Johnson.



that [REDACTED] could have “flexibility in moving [REDACTED] seat,” “early transition times between classes,” and “lunch away from [REDACTED] peers.”<sup>42</sup> Unsurprisingly, this had the apparently intended effect on Student B: Student B withdrew from class discussions, ate lunch by [REDACTED], and lost friends [REDACTED] had shared with the bullies. When [REDACTED] finally graduated and matriculated to high school, Student B decided to hide [REDACTED] Jewish identity from [REDACTED] peers rather than face further isolation and gave up on asking the district to fix the antisemitic environment in its schools.

Similarly, Student C was also subjected to antisemitic bullying by other students at Mt. Washington School. For example, Parent C reported to Principal Brown and Assistant Principal Johnson that on February 22, 2024, an unknown student yelled “Free Palestine” at Student C as [REDACTED] was walking into school.<sup>43</sup> And yet another Jewish student, Student D, [REDACTED], and a fifth-grade student at the time, also faced repeated—and unaddressed—bullying by [REDACTED] peers at Mt. Washington School. In what has become more than an isolated incident at Mt. Washington School, in February 2024, an unknown peer threatened Student D on the playground, saying that “6 million [Jews] was not enough.”<sup>44</sup> Also in Spring 2024, another student, “Bully 4,” told Student D to “[s]hut up, you look like a Nazi,” and yet another student, “Bully 5,” told Student D “[y]ou’re a Nazi.”<sup>45</sup> Each time, Student D’s parent reported these incidents to Principal Brown. And each time, Mt. Washington School found the allegations to be “inconclusive,” and, upon information and belief, did not discipline the bullies for their behavior. Instead, Mt. Washington School allowed antisemitism to fester on campus, leaving Student D shocked, saddened, and hurt. In neither case did Mt. Washington School take any substantive actions to safeguard Student C’s or Student D’s well-being after these incidents.

With the school failing to address the urgent and escalating antisemitic bullying at Mt. Washington School, on February 27, 2024, the parents of Students B, C, and D proposed to Principal Brown and Assistant Principal Johnson an “action plan” which included requests to: (1) speak to all middle school students about targeted harassment, and be “explicitly told that it is not acceptable to . . . make comments that suggest that Jews [ ] should be eliminated (comments about “six million is not enough” . . .); (2) meet with students in the classroom in which these comments and actions were happening to inform them “that it is unacceptable to . . . draw Swastikas or other Nazi-related imagery, or make Nazi gestures . . .”; (3) meet with all faculty and staff to discuss with them these recent incidents; and (4) provide “developmentally appropriate information about antisemitism and the Holocaust to ALL middle school students and 4<sup>th</sup> and 5<sup>th</sup> graders.”<sup>46</sup>

The school, however, allowed the bullying to continue. These same parents wrote again on March 14, 2024, informing Principal Brown and Assistant Principal Johnson that “the same one or two students [Bully 1 and Bully 2] continue to make statements throughout the day (generally rude and offensive statements as well as specific jokes about ceasefires, Nazis, and related topics)” which they noted were reported to the school administration and through incident reporting forms.<sup>47</sup> Imploring the school to take action so that “the burden [of responding to the antisemitism] will not continue to fall on [Student B] and [Student C] to move seats, leave class

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<sup>42</sup> Ex. X, March 13, 2024, Email from [REDACTED] to L. Brown, M. Johnson.

<sup>43</sup> Ex. V, February 27, 2024 – May 2, 2024, Email Exchange Between [REDACTED] and Mt. Washington School Administrators.

<sup>44</sup> Ex. Y, April 28, 2025, Email from [REDACTED] to [REDACTED]

<sup>45</sup> *Id.*

<sup>46</sup> Ex. V, February 27, 2024 – May 2, 2024, Email Exchange Between [REDACTED] and Mt. Washington School Administrators.

<sup>47</sup> *Id.*

early, or otherwise just ignore what is being said,” the parents once again requested the school take specific steps to “address the hate and bias incidents.”<sup>48</sup>

And, after not “hear[ing] any updates [from Mt. Washington School] for some time,” these same parents followed up yet again on May 2, 2024, offering additional educational resources<sup>49</sup> to the school and requesting information from the school on actions it would take to address the repeated concerns that the parents and students had raised over the preceding months.<sup>50</sup> Mt. Washington School ignored each of these offers, took no meaningful steps to educate its student population on any of these topics or to prevent the antisemitic bullying from recurring, and did not meaningfully implement any of the proposed “action plan” requests.

This was not the first time that Parent C requested that Mt. Washington School administrators take specific and concrete steps to address the pervasive antisemitism on campus. On November 20, 2023, Parent C notified Principal Brown and Assistant Principal Johnson that “many of the desks in [Student C’s] ELA, science, and math classrooms have swastikas on them.”<sup>51</sup> In addition to requesting that the school clean the desks, Parent C urged the school to provide programming to the students about antisemitism.<sup>52</sup> Though the school removed the swastikas, the school failed to act on Parent C’s request for antisemitism-specific programming.<sup>53</sup> Instead, Assistant Principal Johnson informed Parent C that the school would host activities in December that “aim[ed] to engage students in sharing their family stories.”<sup>54</sup> As Parent C pointed out, this band-aid did not adequately address the need for “specific educational opportunities regarding anti-Semitism.”<sup>55</sup> Upon information and belief, Mt. Washington School did not provide students with antisemitism-specific education and, as a result, Students B, C, and D were tormented by their fellow students with antisemitic text messages, comments, and Nazi salutes throughout their Spring 2024 semesters, as described above.

## **2. Antisemitic Bullying Followed Student C at Baltimore Polytechnic Institute**

Student C continued to experience harassment upon beginning high school at Baltimore Polytechnic Institute (“Poly”). For example, on May 6, 2025, several [REDACTED] students surrounded Student C in the middle of an unsupervised block period and repeatedly uttered “Hamas” and made jokes invoking Jewish stereotypes to [REDACTED].<sup>56</sup> Feeling uncomfortable and unsafe, Student C left the room and reported the incident to the assistant principal who subsequently spoke with both the [REDACTED] students and their parents.<sup>57</sup> Out of fear of potential retaliation by the [REDACTED]

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<sup>48</sup> *Id.*

<sup>49</sup> On at least two other occasions, Student B’s parent also pleaded with the school to educate the student body on Israel and Palestine, the Holocaust, antisemitism, and Islamophobia and offered resources to facilitate productive discussions around these topics. [REDACTED]

<sup>50</sup> Ex. V, February 27, 2024 – May 2, 2024, Email Exchange Between [REDACTED] and Mt. Washington School Administrators.

<sup>51</sup> Ex. AA, November 20, 2023, Email from [REDACTED] to L. Brown, M. Johnson.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> Ex. BB, May 6, 2025, Email from [REDACTED] to [REDACTED].

<sup>57</sup> *Id.*

students, Student C requested that the school not discipline the [REDACTED] students. In addition, during health class, Bully 1, [REDACTED] and another [REDACTED] student continued to harass Student C with antisemitic comments including jokes about the Holocaust.<sup>58</sup> Having seen Mt. Washington School fail to take action when [REDACTED] reported similar conduct while a student there, Student C ultimately stopped reporting these incidents while at Poly, feeling that doing so would be futile.

### **3. Antisemitism Permeates BCPS School Environments**

These specific instances of antisemitic bullying, harassment, and abuse are part of a generally hostile educational environment Jewish students have faced within BCPS. For example, soon after the Jewish High Holidays, in September and October 2022, swastikas were drawn on the bathroom walls at the Baltimore School of the Arts (“BSA”).<sup>59</sup> In the first message to the student body about the incident, the school’s executive director addressed the graffiti at a high level of generality, failing to even mention the word “swastika” or labeling the conduct as antisemitic.<sup>60</sup> Only after Jewish parents pushed back on the school’s failure to appropriately label the incident for what it was did the school send out subsequent communications acknowledging that the graffiti consisted of swastikas.<sup>61</sup> In subsequent years at BSA, upon information and belief, history teachers removed units on the Holocaust and genocide, and removed mention of the Holocaust while teaching units on World War II. This has contributed to a hostile environment which has left Jewish students feeling both invisible and vulnerable.

Since October 7, 2023, Nazi graffiti at BCPS schools has become more common, requiring parents to repeatedly raise concerns about the graffiti to school administrators. For example, on February 7, 2024, Parent C informed Mt. Washington School Principal Brown and Assistant Principal Johnson that Student C saw “Nazi graffiti” on the desk in one of [REDACTED] classrooms and followed up the next day with another email notifying them that Student C witnessed [REDACTED] peers “regularly making a Nazi salute motion.”<sup>62</sup> While the school removed the graffiti, it was the second time such graffiti had been found at Mt. Washington School in as many years.<sup>63</sup> And just three weeks later, on February 28, 2024, Student B’s parent reported to Principal Brown and Assistant Principal Johnson that five swastikas had been penciled into a school textbook in Student B’s class.<sup>64</sup> A photo of the school textbook page appears below:

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<sup>58</sup> *Id.*

<sup>59</sup> A.W. Taylor, *Hate Speech Graffitied in BSA Bathrooms*, BSA Muse (Nov. 7, 2022), <https://musebsa.com/2022/11/07/hate-speech-graffitied-in-bsa-bathrooms/>.

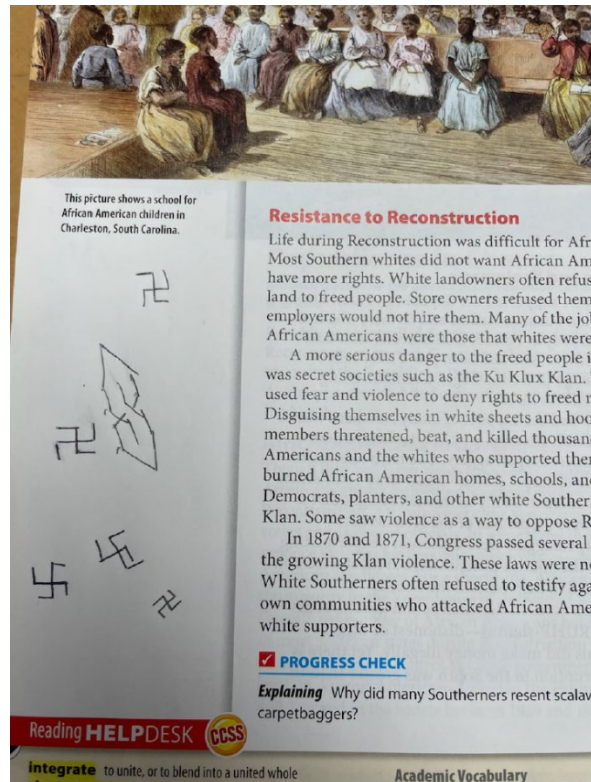
<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> Ex. CC, February 21, 2024, Emails Between [REDACTED].

<sup>63</sup> *Id.*

<sup>64</sup> Ex. DD, May 28, 2024, Email from [REDACTED] to L. Brown.



This marked the third time swastikas had been discovered on school property in a three-year period, with two of those instances occurring in the span of three weeks. In response to these incidents, the parents of Students B and C pressed Principal Brown and Assistant Principal Johnson for an “actionable plan” to address the need for antisemitism-specific education to prevent recurrence.<sup>65</sup> Administrators did not address the parents’ pleas for antisemitism-specific education in the school.

In addition to graffiti, during the 2024–2025 school year, at least one BCPS high school—Baltimore City College—displayed a poster on one of its walls reading “from the river to the sea,” a phrase understood as calling for the destruction of the State of Israel, and denial of the Jewish right to self-determination.<sup>66</sup> Although parents have requested that this poster be taken down, upon information and belief, the poster remains up.

<sup>65</sup> Ex. CC, February 21, 2024, [REDACTED].

<sup>66</sup> See U.S. Dep’t of Educ., Off. of Civ. Rts., *Questions and Answers on Executive Order 13899 (Combating Anti-Semitism) and OCR’s Enforcement of Title VI of the Civil Rights Act of 1964*, 5 (January 19, 2021), <https://www.ed.gov/media/document/faqs-executive-order-13899-combating-anti-semitism-and-ocrs-enforcement-of-title-vi-of-civil-rights-act-of-1964-2021-33939.pdf> (describing International Holocaust Remembrance Alliance Working Definition of Anti-Semitism and Contemporary Examples of Anti-Semitism); Anti-Defamation League, *Slogan: “From the River to the Sea Palestine Will be Free”* (last accessed July 19, 2025), <https://www.adl.org/resources/backgrounders/slogan-river-sea-palestine-will-be-free> (“This rallying cry has long been used by anti-Israel voices, including supporters of terrorist organizations such as Hamas and the PFLP, which seek Israel’s destruction through violent means. It is fundamentally a call for a Palestinian state extending from the Jordan River to the Mediterranean Sea, (continued...)”).

Taken together, these events have contributed to a hostile environment for Jewish students in BCPS schools. Despite the marked increase in antisemitic harassment and bullying of Jewish students since October 7, 2023, BCPS schools have failed to take steps to respond to and remediate the antisemitic conduct, leaving Jewish students feeling insecure and unsafe while at school. To avoid antisemitic harassment, Jewish students have been left to provide for their own safety by isolating themselves from their peers, missing classes or transferring out of them entirely, and hiding their Jewish identities from other students. And they have had to navigate this increasingly uncomfortable environment in school while also witnessing the uptick in antisemitic violence against Jewish people throughout the United States, including in Boulder, Colorado,<sup>67</sup> and nearby Washington, D.C.,<sup>68</sup> which have heightened safety concerns among Jewish students and communities. Instead of addressing these concerns, BCPS has left its Jewish students to fend for themselves.

### III. LEGAL DISCUSSION

#### A. Title VI Protects Jewish Students from Discrimination and Harassment Based on Shared Ancestry

Title VI and its implementing regulation<sup>69</sup> “prohibit discrimination on the basis of race, color, and national origin, including shared ancestry, in any program or activity receiving federal financial assistance from the Department.”<sup>70</sup> This extends to discrimination and harassment that creates a hostile environment against students on the basis of their race, color, and national

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territory that includes the State of Israel, which would mean the dismantling of the Jewish state. It is an antisemitic charge denying the Jewish right to self-determination, including through the removal of Jews from their ancestral homeland.”).

<sup>67</sup> Christa Swanson, Pat Milton, Andrew Haubner, *Attack in Boulder, Colorado, Burns People at March for Israeli Hostages, Officials Say; Suspect Charged*, CBS News (June 5, 2025), <https://www.cbsnews.com/colorado/news/colorado-police-responding-to-boulder-pearl-street-mall-attack-multiple-injured/>.

<sup>68</sup> Pierre Thomas, et al., *2 Israeli Embassy Staffers Killed in ‘Act of Terror’ in Washington, DC*, ABC News (May 22, 2025), <https://abcnews.go.com/US/2-shot-fbi-field-office-washington-dc/story?id=122059162>.

<sup>69</sup> See 43 C.F.R. § 100.3(a) (“No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which [Title VI] applies.”).

<sup>70</sup> U.S. Dep’t of Educ., Off. of Civ. Rts., Dkt. No. 03-24-1154, Letter from Beth Gellman-Beer to Howard County Public Schools, 1 (Jan. 16, 2025) (“HCPS Letter”), <https://ocrcas.ed.gov/sites/default/files/ocr-letters-and-agreements/03241154-a.pdf>; see also U.S. Dep’t of Educ., Off. of Civ. Rts., Dear Colleague Letter: Protecting Students from Discrimination, such as Harassment, Based on Race, Color, or National Origin, including Shared Ancestry or Ethnic Characteristics, 2 (May 7, 2024) (“2024 Dear Colleague Letter”) (citing *T.E. v. Pine Bush Cent. Sch. Dist.*, 58 F. Supp. 3d 332, 353-55 (S.D.N.Y. 2014)), <https://www.ed.gov/about/offices/list/ocr/letters/colleague-202405-shared-ancestry.pdf>; U.S. Dep’t of Educ., Off. of Civ. Rts., Dear Colleague Letter: Addressing Discrimination Against Jewish Students, 1 (May 25, 2023) (“May 2023 Dear Colleague Letter”), <https://www.ed.gov/about/offices/list/ocr/docs/antisemitism-dcl.pdf>.

origin.<sup>71</sup> Discrimination also occurs when a student is excluded from participation or denied the benefits of a program receiving federal financial assistance.<sup>72</sup>

The Department of Education has consistently interpreted Title VI to extend to “perceived shared ancestry or ethnic characteristics,” including on the basis of shared Jewish ancestry.<sup>73</sup> That interpretation has been affirmed through executive action.<sup>74</sup> For example, Executive Order 13899 states that “[d]iscrimination against Jews may give rise to a Title VI violation when the discrimination is based on an individual’s race, color, or national origin.”<sup>75</sup>

Executive Order 13899 also directs agencies conducting Title VI investigations, including those conducted by OCR, to consider the International Holocaust Remembrance Alliance (“IHRA”) working definition of antisemitism and its “Contemporary Examples of Anti-Semitism,” which include the following:

- 1) Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, or even for acts committed by non-Jews;
- 2) Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavor; and
- 3) Holding Jews collectively responsible for actions of the state of Israel.<sup>76</sup>

Issued in January 2025, Executive Order 14188 reaffirmed Executive Order 13899 and “direct[s] additional measures to advance the policy thereof in the wake of the Hamas terrorist attacks of October 7, 2023, against the people of Israel.”<sup>77</sup> Accordingly, it is the “policy of the United States to combat anti-Semitism vigorously, using all available and appropriate legal tools, to prosecute, remove, or otherwise hold to account the perpetrators of unlawful anti-Semitic harassment and violence.”<sup>78</sup> With “students, in particular, fac[ing] anti-Semitic harassment in schools and on university and college campuses,”<sup>79</sup> schools must fulfill their obligations under Title VI “to

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<sup>71</sup> Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d et seq.; 34 C.F.R. § 100.3.

<sup>72</sup> See 34 C.F.R. § 100.3.

<sup>73</sup> HCPS Letter, at 2; see also U.S. Dep’t of Educ., Off. of Civ. Rts., Fact Sheet: Combating Discrimination Against Jewish Students (Jan. 2017), <https://www.ed.gov/about/offices/list/ocr/docs/jewish-factsheet-201701.pdf> (“Title VI protects all students, including Jewish students, from discrimination based on race, color, and national origin (including language and actual or perceived shared ancestry or ethnic characteristics).”); 2024 Dear Colleague Letter, at 1 (“These protections extend to students and school community members who are or are perceived because of their shared ancestry or ethnic characteristics to be Jewish, Israeli . . . or any other faith or ancestry.”).

<sup>74</sup> See EO 14188; Exec. Order No. 13899, 84 Fed. Reg. 68,779, *Combating Anti-Semitism* (Dec. 11, 2019) (“EO 13899”), <https://www.federalregister.gov/d/2019-27217>.

<sup>75</sup> EO 13899, at § 1.

<sup>76</sup> *Working definition of antisemitism*, International Holocaust Remembrance Alliance (last visited July 2, 2025), <https://holocaustremembrance.com/resources/working-definition-antisemitism>.

<sup>77</sup> EO 13899, at § 1.

<sup>78</sup> EO 14188, at § 2.

<sup>79</sup> *Id.* at § 1.



ensure nondiscrimination based on race, color, or national origin, including shared ancestry or ethnic characteristics.”<sup>80</sup>

**B. Jewish Students in BCPS Faced Severe and Pervasive Harassment, Creating a Hostile Environment that Deprived Them of Educational Opportunities**

To establish a Title VI violation under a hostile environment theory, OCR must find that 1) a hostile environment based on national origin existed; 2) BCPS had actual or constructive notice of the hostile environment; and 3) BCPS failed to take prompt and effective action to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring.<sup>81</sup> A hostile environment includes “unwelcome conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from a recipient’s education program or activity.”<sup>82</sup> Harassing conduct in violation of Title VI “may include speech or expression” and may be targeted at anyone, not just a particular student, to create a hostile environment “for a student or group of students, or for other protected individuals.”<sup>83</sup> In certain cases, “a hostile environment requiring appropriate responsive action may result from a single severe incident.”<sup>84</sup>

A school 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.”<sup>85</sup> Under Title VI, schools may not discriminate by excluding individuals from participating in educational programs or activities or by denying individuals the benefits of such programs on the basis of race, color, or national origin.<sup>86</sup> Under the IHRA Definition, “the denial to Jews of opportunities or services available to others” is “[a]ntisemitic discrimination.”<sup>87</sup> A school must respond to discriminatory harassment when such harassment

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<sup>80</sup> 2024 Dear Colleague Letter, at 1.

<sup>81</sup> HCPS Letter, at 2.

<sup>82</sup> *Id.*

<sup>83</sup> 2024 Dear Colleague Letter, at 4–5; *see also* HCPS Letter, at 2 (“Harassing acts need not be targeted at the complainant to create a hostile environment. The acts may be directed at anyone, and the harassment may also be based on association with others of a different national origin”); U.S. Dep’t of Educ., Off. of Civ. Rts., Dear Colleague Letter: Discrimination, including Harassment, Based on Shared Ancestry or Ethnic Characteristics, 2 (Nov. 7, 2023), <https://www.ed.gov/about/offices/list/ocr/letters/colleague-202311-discrimination-harassment-shared-ancestry.pdf> (“Harassing conduct can be verbal or physical and need not be directed at a particular individual.”).

<sup>84</sup> 2024 Dear Colleague Letter, at 6 (citing various case law, alongside OCR and EEOC guidance, in support of this standard).

<sup>85</sup> *See* U.S. Dep’t of Educ., Off. of Civ. Rts., Dear Colleague Letter: Harassment and Bullying, 1 (Oct. 26, 2010) (“2010 Dear Colleague Letter”), <https://cdpsdocs.state.co.us/safeschools/resources/USED%20US%20Department%20of%20Education/OCR%202010%20Dear%20Colleague%20merged.pdf>; *see also* U.S. Dep’t of Educ., Off. of Civ. Rts., 2017 Know Your Rights: Title VI and Religion (2017), <https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/know-rights-201701-religious-disc.pdf>.

<sup>86</sup> *See* 2010 Dear Colleague Letter at 3.

<sup>87</sup> *Working definition of antisemitism*, International Holocaust Remembrance Alliance (last visited July 2, 2025), <https://holocaustremembrance.com/resources/working-definition-antisemitism>; *see also* EO 13899.



“negatively affect[s] the ability and willingness of Jewish students to participate fully in the school’s education programs and activities.”<sup>88</sup>

BCPS knew and failed to remediate the hostile environment for Jewish students in its schools in violation of Title VI. As described above, BCPS found in its investigation that [REDACTED] “singled out [Student A] during instruction due to [REDACTED] religious background”—that is, [REDACTED] Jewish identity—by performing three Nazi salutes in class,<sup>89</sup> thus creating a hostile environment for Student A based on [REDACTED] shared Jewish ancestry.<sup>90</sup> Despite this finding, upon information and belief, there have been no consequences for [REDACTED], and certainly no action from the district to cure the hostile environment. He remains an instructor *and* an administrator at Bard. Meanwhile, Student A has been denied educational benefits including [REDACTED] seminar courses and has had to remove [REDACTED] from the vicinity around [REDACTED] classrooms because [REDACTED] continues to discuss Student A’s reporting of his conduct and the subsequent investigation with other students. This has made Student A “exponentially more uncomfortable in the hallways and at school in general.”<sup>91</sup>

Students B, C, and D have been subjected to relentless harassment by their peers on the basis of their Jewish identities. Non-Jewish students have threatened Student B, commenting that “6 million [Jews] was not enough,” “all Jews should die,” and “we should call Hamas and have them come here.”<sup>92</sup> These same students have lamented the “failure of the Nazis,” performed Nazi salutes in front of Students B and C, told Student B offensive “jokes,” including that Jewish community members should be “sen[t] [REDACTED] on a mission [to Israel] to get blown up” by Hamas, and texted Students B and C a link to fill out an antisemitic quiz and that “[Z]ionism is fascism for liberals” and “Jewish states are bad.”<sup>93</sup> Other students have threatened Student D, telling [REDACTED] that “6 million [Jews] was not enough,” and that [REDACTED] is a “Nazi” and “look[s] like a Nazi.”<sup>94</sup> Each and every time these incidents were reported. And each and every time the BCPS school where the reported incident took place—Mt. Washington School—determined the allegations were “inconclusive.” Upon information and belief, BCPS hid behind those findings in order to not discipline the bullies.

These Jewish students have also been confronted on numerous occasions with swastikas appearing in school.<sup>95</sup> Upon information and belief, although these incidents were all reported to BCPS schools, neither the district nor the schools have taken meaningful steps to address this hostile environment and prevent its recurrence.

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<sup>88</sup> See 2010 Dear Colleague Letter at 5–6.

<sup>89</sup> Ex. G, March 28, 2025, Email from [REDACTED] to [REDACTED].

<sup>90</sup> *Id.*

<sup>91</sup> Ex. M, April 1, 2025, Email from [REDACTED] to [REDACTED], [REDACTED].

<sup>92</sup> Ex. U, March 7, 2024, Email from [REDACTED] to BCPS Ombudsman; Ex. V, February 27, 2024 – May 2, 2024, Email Exchange Between [REDACTED] and Mt. Washington School Administrators.

<sup>93</sup> Ex. P, January 17, 2024, Email from [REDACTED] to L. Brown; Ex. T, March 4, 2024, Email from [REDACTED] to L. Brown.

<sup>94</sup> Ex. Y, May 6, 2025, Email from [REDACTED] to [REDACTED].

<sup>95</sup> Ex. AA, November 20, 2023, Email from [REDACTED] to L. Brown, M. Johnson; Ex. CC, February 21, 2024, Emails Between [REDACTED]; Ex. DD, May 28, 2024, Email from [REDACTED] to L. Brown.

Under the totality of the circumstances, these verbal and non-verbal acts have created a hostile environment where openly Jewish students face a torrent of harassment, bullying, and denial of opportunities because of their Jewish ancestry. The district has failed to take meaningful action to stem the tide of antisemitism. It has offered lip service, procedural excuses, and “restorative justice” circles that led to no substantive changes in the schools. The result is that the few Jewish students within BCPS remain isolated from their peers and unable to take advantage of the educational and social opportunities for which they are entitled equal access.

**C. BCPS Had Notice of Antisemitic Harassment and Failed to Take Effective Action to Eliminate the Hostile Environment in its Schools**

As described above, to open an investigation, OCR must conclude that BCPS had “actual or constructive notice of the hostile environment” and failed to take prompt and effective steps reasonably calculated to (i) end the harassment, (ii) eliminate any hostile environment and its effects, and (iii) prevent the harassment from recurring.<sup>96</sup> Actual or constructive notice exists where “the school knew or should have known” of the hostile environment.<sup>97</sup> OCR may find that BCPS had constructive notice where “upon reasonably diligent inquiry in the exercise of reasonable care, [BCPS] should have known of the discrimination.”<sup>98</sup> That is, if BCPS could have found out about the harassment of Jewish students had it made a proper inquiry and should have made such an inquiry, knowledge of the harassment will be imputed to the BCPS.<sup>99</sup>

A school that has actual or constructive notice of the harassment has a legal duty to take immediate steps to eliminate it and prevent it from recurring.<sup>100</sup> “The appropriate response to a hostile environment based on national origin must be tailored to redress fully the specific problems experienced at the school as a result of the harassment.”<sup>101</sup>

Jewish students and their parents repeatedly notified schools and BCPS of numerous incidents of antisemitism and pleaded with BCPS to take remedial action to address the antisemitic harassment, bullying, and hostility. Despite the ample notice provided to BCPS, it failed to take steps to address it as required by Title VI.

As described above, BCPS had notice of [REDACTED] tendency to invoke the Nazis without pedagogical justification as early as September 2022 and failed to effectively address the conduct that created a hostile environment for Student A and prevent the harassment from recurring. The parents of Students A, B, C, and D pleaded with Mt. Washington School and BCPS administrators to take corrective action to protect their children.<sup>102</sup> For example, after repeated instances of students making Hamas-related “jokes” in Student C’s class, Parent C told the district “[w]e are looking for a customized approach to address this particular, urgent, and

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<sup>96</sup> 2024 Dear Colleague Letter, at 4; *see also* May 2023 Dear Colleague Letter, at 1 n.3 (citing *Zeno v. Pine Plains Cent. Sch. Dist.*, 702 F.3d 655, 670 n.14 (2d Cir. 2012)) (noting a school district’s “longstanding legal duty to ‘take reasonable steps to eliminate’ racial harassment in its schools.”).

<sup>97</sup> May 2023 Dear Colleague Letter, at 2.

<sup>98</sup> *See* HCPS Letter, at 3.

<sup>99</sup> *Id.*

<sup>100</sup> *See* 2023 Dear Colleague Letter, at 2.

<sup>101</sup> Letter from Beth Gellman-Beer, OCR Regional Director, to Red Clay Consolidated School District, 12 (Jan. 29, 2024) (“OCR/Red Clay Resolution Letter”), <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/03231373-a.pdf>.

<sup>102</sup> *See, e.g.*, Ex. CC, February 21, 2024, Emails Between [REDACTED].

time-sensitive issue in our school.”<sup>103</sup> In response, Principal Brown referred back to general, non-antisemitism-specific actions such as curricula “that addresses social and emotional learning.”<sup>104</sup> Parent C responded to Principal Brown that these actions failed to “address this particular problem.”<sup>105</sup>

After Jewish families repeatedly attempted to engage BCPS about the antisemitic, hostile environment in several of its schools, BCPS accrued a “legal duty to take reasonable steps to eliminate it.”<sup>106</sup> BCPS was required to “tailor[]” its response “to redress fully the specific problems experienced as a result of the harassment.”<sup>107</sup> To evaluate “the appropriateness of the responsive action,” OCR assesses whether such action was “reasonable, timely, and effective.”<sup>108</sup> To the extent BCPS responded at all, its actions failed on all three scores.

With respect to [REDACTED], upon information and belief, he has faced no penalty as a result of the substantiated investigation into his use of Nazi salutes directed at Student A. Instead, the principal asked Student A to drop [REDACTED] classes with [REDACTED] and Student A has had to avoid his classroom.<sup>109</sup> Nor was resolution timely. Two months after Student A filed the complaint and navigated a Kafkaesque rigmarole, BCPS informed Student A and [REDACTED] parents only that the allegations against [REDACTED] were “substantiated” and nothing more.<sup>110</sup> BCPS failed to provide information about any disciplinary outcomes, as required by district policy.<sup>111</sup>

The other Jewish students faced similarly inappropriate school and district responses. In response to reports of antisemitic text messages and Nazi salutes targeting Students B and C, Mt. Washington School could only muster up a “restorative justice” circle that didn’t even include all of the bullies who engaged in the reported conduct. This failure to meaningfully address the harassment allowed it to fester. Students B and C continued to report other incidents of bullying by these same students, including hearing “jokes” that a delegation of Jewish community members should be “sen[t] [] on a mission [to Israel] to get blown up” by Hamas.<sup>112</sup> Parents reported these incidents to the school and yet, upon information and belief, the school took no action to discipline the bullies.

Instead, the solution that Mt. Washington School proposed to this persistent harassment was for Student B—rather than [REDACTED] bullies—to take steps to remove [REDACTED] from situations in which [REDACTED] could be further targeted. Mt. Washington School allowed Student B to have “flexibility in moving [REDACTED] seat,” “early transition times between classes,” and “have lunch away from [REDACTED] peers.”<sup>113</sup> In short, Mt. Washington’s solution was to compound Student B’s isolation and place the onus on [REDACTED] to prevent the bullying, rather than take any meaningful action to prevent the harassment from recurring. BCPS’ failure to appropriately address antisemitism at Mt.

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<sup>103</sup> Ex. CC, February 21, 2024, Emails Between [REDACTED].

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> OCR/Red Clay Resolution Letter, at 12.

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> Ex. M, April 1, 2025, Email from [REDACTED] to [REDACTED], [REDACTED].

<sup>110</sup> Ex. G, March 28, 2025, Email from [REDACTED] to [REDACTED].

<sup>111</sup> Ex. G, March 28, 2025, Email from [REDACTED] to [REDACTED]; Ex. B, BCPS, Policy on Reporting and Investigating Discrimination § II.J.3.c.

<sup>112</sup> Ex. T, March 4, 2024, Email from [REDACTED] to L. Brown.

<sup>113</sup> Ex. X, March 13, 2024, Email from [REDACTED] to L. Brown, M. Johnson.

Washington School led Student B to hide [REDACTED] Jewish identity once [REDACTED] matriculated to high school at [REDACTED] and Student C to stop reporting antisemitic incidents altogether once [REDACTED] matriculated at [REDACTED].

Upon information and belief, BCPS has not implemented any meaningful actions to address this rampant antisemitism. Consequently, the bullying and harassment of Jewish students has continued through the end of this school year and is all but guaranteed to continue when classes resume in the fall.

#### **D. BCPS Failed to Protect Student A From Retaliation After [REDACTED] Reported Antisemitic Harassment**

Title VI prohibits an institution from retaliating against a student for “bring[ing] concerns about possible civil rights problems to [the] school’s attention.”<sup>114</sup> As outlined in OCR’s April 24, 2013 “Dear Colleague Letter,” “once a student . . . complains formally or informally to a school about a potential civil rights violation,” the “recipient is prohibited from retaliation . . . because of the individual’s complaint,” “including intimidating, threatening, coercing, or in any way discriminating against the individual.” Retaliation occurs when (1) an individual complained about discrimination or otherwise engaged in protected activity; (2) an individual experienced an adverse action; and (3) there is some evidence of a causal connection between the adverse action and the protected activity.<sup>115</sup>

[REDACTED] retaliated against Student A for confronting his use of Nazi salutes in class and reporting that conduct to Bard and BCPS. In response to [REDACTED] report, [REDACTED] told Student A that [REDACTED] should not take his social justice course and regularly spoke derisively about Student A’s report and subsequent investigation with other students.<sup>116</sup> As a result, Student A’s peers regularly confronted [REDACTED] about why [REDACTED] reported [REDACTED], and [REDACTED] felt the need to avoid [REDACTED] in hallways. Though Parent A reported this retaliation to BCPS on at least three occasions, on information and belief, BCPS took no meaningful action to prevent its recurrence.

This retaliation has deprived Student A of educational opportunities and has hindered [REDACTED] ability to participate fully in school. As described above, knowing that [REDACTED] was speaking about the incident and investigation with other students and those students approaching Student A in response made Student A “exponentially more uncomfortable in the hallways and at school in general.”<sup>117</sup> As a result, Student A avoided [REDACTED] and at times felt too intimidated to walk through the school’s hallways alone, and was isolated by [REDACTED] peers.<sup>118</sup>

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<sup>114</sup> U.S. Dep’t of Educ., Off. of Civ. Rts., Dear Colleague Letter: Retaliation, 2 (April 24, 2013), <https://www.ed.gov/sites/ed/files/about/offices/list/ocr/letters/colleague-201304.pdf>; see also 34 C.F.R. § 100.7(e).

<sup>115</sup> U.S. Dep’t of Educ., Off. of Civ. Rts., Civil Rights Protections Against Retaliation, 1 (rev. Jan. 2025), <https://www.ed.gov/media/document/ocr-retaliation-resource-2024-108799.pdf>.

<sup>116</sup> Ex. A, February 13, 2025, Letter from [REDACTED] to [REDACTED]; Ex. M, April 1, 2025, Email from [REDACTED] to [REDACTED], [REDACTED].

<sup>117</sup> Ex. M, April 1, 2025, Email from [REDACTED] to [REDACTED], [REDACTED].

<sup>118</sup> *Id.*

#### IV. SUGGESTED REMEDIES

For the forgoing reasons, the Complainant requests that OCR require BCPS to take, at a minimum, the following steps to come into compliance with Title VI and address the hostile, antisemitic environment that permeates schools in the district:

1. Incorporate the IHRA Definition, including its guiding examples, in BCPS' policy manuals and documents related to discrimination, consistent with Executive Orders 13899 and 14188 and the values of free speech and academic freedom. BCPS should also announce its commitment to utilize the IHRA Definition as required by law when investigating and responding to incidents of harassment and discrimination to determine whether they are motivated by antisemitic animus; and amend its codes, policies, and procedures concerning discrimination, retaliation, intimidation, harassment, bullying, and violence to clarify that conduct falling within the IHRA Definition and examples will be considered discriminatory and retaliatory treatment in violation of those codes, policies, and procedures.
2. Provide mandatory annual training on antisemitism to all administrators, faculty, students, and staff who interact with students. The training should familiarize all members of the community with traditional as well as contemporary antisemitic stereotypes and conspiracy theories and their social and political functions, so that the BCPS community will be able to better identify and respond to antisemitic incidents in the future. The training should utilize the IHRA working definition of antisemitism and its contemporary examples. The training should also use the *No Place For Hate* program facilitated by the ADL.
3. Implement curricula to educate students on the Holocaust and historical and modern examples of antisemitism at both the middle and high school levels.
4. Modify relevant educational programs and trainings to ensure appropriate inclusion of Jewish identity and communicate and enforce a zero-tolerance policy for antisemitic conduct, including, for example, comments targeting Jewish students on the basis of their Jewish identity, performing Nazi salutes, and graffiting swastikas on school property.
5. Adopt new policies and procedures for administrators and other employees regarding Title VI's prohibition against retaliation. The revised policies and procedures should ensure that BCPS will protect students who report civil rights violations, and that it will take prompt and effective action to stop retaliatory harassment that occurs as a result of a student's report of discriminatory conduct. BCPS must ensure that information concerning the prohibition on retaliation is continually conveyed to employees, which may include incorporating the prohibition on retaliation into relevant policies and guidance.
6. Enforce BCPS' Policy on Reporting and Investigating Discrimination by:
  - a. Determining what actions BCPS will take to end antisemitic discrimination and prevent its reoccurrence, what disciplinary consequences shall be imposed on [REDACTED]

██████, and what remedies shall be provided for the student who faced the discrimination.<sup>119</sup>

- b. Providing all parties with an accurate description of all evidence collected during the investigation<sup>120</sup> and a complete written determination that includes the rationale for whether discrimination occurred, a recommendation for disciplinary consequences, and a statement on what remedies will be provided to the complainant.<sup>121</sup>
7. Conduct disciplinary proceedings for students, faculty, and staff known to have been involved with antisemitic discrimination, harassment, bullying, or retaliation.
8. Remove all antisemitic posters, banners, flags, images, graffiti, and writings on school property.
9. Develop or revise its procedure for documenting each report or complaint of a bias incident or hate crime motivated by antisemitism (e.g., assaults, threats, the appearance of swastikas, and/or the destruction of property). Such revisions should include a protocol for reporting incidents of hate speech and harassment immediately and accurately to law enforcement, with photographic or video documentation. In addition, the School Resource Officer should be included in the evaluation and reporting of each incident.
10. Review its response to reports of discrimination and/or harassment on the basis of Jewish shared ancestry received during the 2023–2024 and 2024–2025 school years to ensure that the district made an appropriate determination regarding whether the alleged conduct created a hostile environment within the district’s education programs or activities, and to correct any issues that arose where the district’s response was inadequate.
11. Conduct an audit of each school that serves any students in grades ranging from 6th through 12th grades to review the consistency of the application of and compliance with the district’s policies and procedures regarding non-discrimination on the basis of race, color, and national origin, including harassment on the basis of shared ancestry and ethnic characteristics for the 2024–2025 school year.

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<sup>119</sup> Ex. B, BCPS, Policy on Reporting and Investigating Discrimination § II.J.3.b (imposing mandatory determinations when allegations of discrimination are substantiated); § II.K.2.c (imposing consequences for employees who violate the policy); § II.N (imposing disciplinary consequences for employees who retaliate against students for reporting discrimination).

<sup>120</sup> *Id.* at § II.I.2.

<sup>121</sup> *Id.* at § II.J.3.c.

## V. CONCLUSION

For the foregoing reasons, the Complainant urges OCR to (1) initiate an investigation of BCPS, a recipient of federal funding, for violations of Title VI and the statute's implementing regulations, and (2) include this case in OCR's Section 201(a) mediation program.

Respectfully submitted,

/s/ Jennifer H. Saperstein

Jennifer H. Saperstein  
Jeffrey B. Elikan  
Alexander J. Thomson  
Samuel T. Ackerman  
Garrett E. Cunningham  
COVINGTON & BURLING LLP  
One CityCenter  
850 Tenth Street, NW  
Washington, D.C. 20001  
(202) 662-6000  
jsaperstein@cov.com  
jelikan@cov.com  
ajthomson@cov.com  
sackerman@cov.com  
gcunningham@cov.com

/s/ Daniel N. Shallman

Daniel N. Shallman  
COVINGTON & BURLING LLP  
1999 Avenue of the Stars  
Los Angeles, CA 90067  
(424) 332-4800  
dshallman@cov.com

*Counsel for Complainant*

/s/ Corena Larimer

Corena Larimer  
Associate Counsel, National Litigation  
Anti-Defamation League  
40 Court St #12  
Boston, MA 02108  
clarimer@adl.org