

February 28, 2024

Hon. Catherine Lhamon
Assistant Secretary for Civil Rights
US Department of Education
Office for Civil Rights
Email: Catherine.Lhamon@eg.gov

Emily Frangos
Regional Director
Office for Civil Rights
District of Columbia Office,
US Department of Education
Email: OCR.DC@ed.gov

Re: Civil Rights Violations at Berkeley Unified School District (“BUSD”)

Dear Assistant Secretary Lhamon and Ms. Frangos:

Introduction

The Louis D. Brandeis Center for Human Rights Under Law (the “Brandeis Center” or “LDB”) and the Anti-Defamation League (“ADL”) file this complaint on behalf of their organizations and the many parents at BUSD schools whose children have been subjected to severe and persistent harassment and discrimination on the basis of their Jewish ethnicity, shared ancestry, and national origin, and whose reports to administrators have gone ignored for months.

Over the past four months, BUSD has knowingly allowed its K-12 campuses to become viciously hostile environments for Jewish and Israeli students. While anti-Semitism has flared up at BUSD from time to time in the past, it positively surged after October 7, 2023, when Hamas carried out a terrorist attack in Israel, massacring, torturing, and kidnapping 1400 innocent civilians, including infants, children, and the elderly. Most people across the globe were horrified, but at BUSD, a virulent wave of anti-Semitism swept through its schools immediately following the massacre. Jewish and Israeli students have since been subjected to nonstop anti-Semitic bullying and harassment by their teachers and peers, in hallways, in classrooms, and in school yards.

Reported incidents of anti-Semitism include school “walkouts” praising Hamas with students shouting “f- the Jews” and “KKK.” Teachers use class time to propagandize that the Hamas massacre was admirable “resistance.” Following their teachers’ lead, students bully their Jewish peers and deride their physical appearance.

Parents regularly report anti-Semitic incidents affecting their children to the administration, but BUSD has done nothing to address, much less curtail, the hostile environment that has plagued BUSD for over four months. At most, misguided administrators have attempted to “resolve” problems involving teachers by moving Jewish and Israeli students into new classes. As a result, anti-Semitism is normalized throughout BUSD. And teachers have responded with threats. One teacher approached a parent who had complained about her, saying,

(b)(6); (b)(7)(A); (b)(7)(C)

(b)(6); (b)(7)(A); (b)(7)(C)

Non-Jewish students are led by their teachers’ example to believe that they can freely denigrate their Jewish and Israeli classmates, telling them, e.g., that “it is excellent what Hamas did to Israel” and “you have a big nose because you are a stupid Jew.”

The environment is so bad that Jewish and Israeli students are often afraid to go to school. For the foregoing reasons, and as detailed more fully below, the Brandeis Center and ADL ask the Department of Education’s Office for Civil Rights (“OCR”) to initiate an investigation into BUSD, a recipient of federal financial assistance.¹ The Complainants also request mediation pursuant to Section 201(a) of OCR’s Case Processing Manual.

Statement of Facts

1. Walkouts for Gaza and Hamas

Since October 7, 2023, BUSD teachers and administrators have used their influence and power, as well as BUSD resources and facilities, to promote, support, and organize walkouts and teacher activities denigrating Israelis and calling for the elimination of Jews. BUSD teachers, staff, and administrators have participated in and encouraged students to join walkouts, depriving Jewish and Israeli students of a safe place to learn and all students of instruction.

The walkouts have taken place during school hours and have entailed students leaving their classrooms, missing lessons, exiting the school building, and walking down public streets to locations off campus. BUSD has not notified parents in

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

advance and did not provide permission slips for parents to sign, as they do for school-sanctioned field trips. Instead, BUSD has permitted students to leave school grounds, without parental permission to join rallies denigrating Israelis and Jews.

a. BHS Walkout for Gaza (October 18, 2023)

The Arab Resource and Organizing Center (“AROC”), which contracts with some BUSD schools to provide limited services for Arab students, called for all students in the Bay Area and across the country to stage a protest in support of Gaza during school hours on October 18, 2023, just 11 days after Hamas’ terrorist attack on Israeli civilians. AROC’s website explains that the Walkout for Gaza was part of a “National Day of Action” aimed to “to stop the genocide in Gaza and demand that local leaders protect Palestinian, Arab, Muslim and all students against racist attacks.”²



Students from Berkeley High School (“BHS”) left class on October 18, 2023 without parental permission and walked through the city of Berkeley chanting, “Stop bombing Gaza” and “From the river to the sea, Palestine will be free,” a phrase that calls for the elimination of all Jews from the State of Israel.³

² <https://legalinsurrection.com/2023/10/hundreds-of-san-francisco-high-school-students-leave-class-to-protest-israel/>.

³ “At Berkeley High walkout, lone pro-Israel protester makes dad proud,” The Jewish News of Northern California, October 18, 2023, <https://jweekly.com/2023/10/18/at-berkeley-high-walkout-lone-pro-israel-protester-makes-dad-proud/>; “BHS students

