

No. 25-965

IN THE
Supreme Court of the United States

DANIEL GRAND,

Petitioner,

v.

CITY OF UNIVERSITY HEIGHTS, OHIO, ET AL.

Respondents.

**On Writ of Certiorari to the United States
Court of Appeals for the Sixth Circuit**

**BRIEF OF *AMICUS CURIAE*
THE MATTATHIAS PROJECT
IN SUPPORT OF PETITIONER**

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INTEREST OF *AMICUS CURIAE*¹

Amicus Mattathias Project is a grassroots unincorporated association of around 130 Jewish Americans from across the United States who are committed to preserving Jewish identity, heritage, and culture in America.

To advance that mission, the Mattathias Project meets regularly to discuss methods for effective civic engagement and political advocacy. Led by Rabbi Cary Kozberg, the association educates its members—who are professionals in various industries and concerned lay leaders—on current issues relating to anti-semitism and pro-Israel causes, and equips them to engage with their local communities and government to effect positive change. In addition, its members track and communicate frequently about instances where elected officials exhibit anti-Jewish or anti-Israel behavior.

The Mattathias Project has a strong interest in this case, which implicates the First Amendment rights of its members and constituents. In particular, this case asks whether Jews’ free exercise is robustly protected by the First Amendment in settings where antisemitic motivations may weaponize otherwise-neutral regulations to chill religious practice. Put differently, this case concerns whether minority or unpopular faiths must sit back and suffer government-

¹ No counsel for any party authored this brief in whole or in part, and no entity or person, aside from amicus and its counsel, made any monetary contribution toward the preparation or submission of this brief.

driven discrimination while they wait for the conclusion of hostile administrative proceedings.

The Mattathias Project has a meaningful interest in ensuring that government officials do not get a pass on chilling free exercise of Judaism—let alone a permit for antisemitic hostility—based on procedural loopholes or misapplication of legal doctrine. The Free Exercise Clause demands more.

INTRODUCTION AND SUMMARY OF THE ARGUMENT

Religious discrimination is anathema to American law and our nation’s core values. When government officials implement regulations burdening free exercise paired with “official expressions of hostility,” the state action is void ab initio. *Masterpiece Cakeshop v. Colo. C.R. Comm’n*, 584 U.S. 617, 639 (2018). The City of University Heights’ officials showed unmistakable hostility toward Grand’s Jewish practices, creating a record of persecution based on his religion and violating his free exercise.

In multiple ways, the First Amendment protects minority viewpoints—religious or otherwise. It guards against the “[g]overnment seek[ing] ... to suppress unpopular ideas or information.” *Turner Broad. Sys., Inc. v. F.C.C.*, 512 U.S. 622, 641 (1994). And First Amendment protections are “all the more essential” for those “espousing beliefs already unpopular.” *Gibson v. Fla. Legis. Investigation Comm.*, 372 U.S. 539, 556–57 (1963). So when individuals hold minority views, “the deterrent and ‘chilling’ effect on the free exercise of constitutionally enshrined rights of free speech, expression, and association is

consequently the more immediate and substantial.” *Id.* at 557. These settled constitutional principles matter here, where the lower courts concluded that Grand’s claims were not ripe, even though his expression and association had already been chilled.

The Sixth Circuit’s decision should be reversed for the doctrinal errors that Petitioner identifies. But amicus writes separately to provide additional context within which these legal errors occurred—one that is prone to be downplayed in many parts of our nation. This Court’s evaluation of the arguments should be informed by the cancerous nature of antisemitism affecting the fabric of our culture and decision making by government actors. All the socio-cultural risks that Religion Clauses serve to safeguard against—unfamiliarity, suspicion, unpopularity—are heightened for Jews living in America today. And the conscience concerns that the Religion Clauses were designed to address—worship, prayer, core beliefs, and sacred practices—are at issue in this case.

First, antisemitism is on the rise in the U.S., creating environments in which a certain strain of religious animus is reaching virtually every aspect of Jewish life. From extreme acts, like terrorism, to policy making, data show that antisemitism has infected public opinion and even democratic decision making. Where documented incidents of violence and harassment against an oppressed minority are extensive and escalating, constitutional safeguards against abuse are all the more critical.

Second, antisemitism has not only spread but has been normalized. Malfeasance against Jews is

unrecognized and underreported. Discrimination against Jews often elicits shrugs, and latent prejudice drives behavior. The mainstreaming of hostility toward Jewish Americans is evident in this case. Grand’s neighbors made no attempt to hide their reason for supporting the City’s action against him. One said, “I am not Jewish and I do not want our neighborhood labeled as Jewish,” Pet.App.131a–32a; others insisted that Grand “should have picked somewhere else” to live.² And the government platformed the religious animus: the City’s Planning Commission broadcast a public meeting with more than 100 attendees, in which Jewish practices were flatly denigrated. Rep.App.14 n.1. Matter-of-fact statements of religious hostility are no less sinister than maniacal ones, and they demand relief. As soon as the City issued a discriminatory cease-and-desist letter targeting his religious practices, Grand had suffered a completed and cognizable harm to his religious freedom.

Then things got worse, with City officials using the force of law to further burden Grand’s free exercise. City police officers patrolled Grand’s street, surveilling his address. Rep.App.32–33. The City prosecutor, the Mayor, and the City housing department coordinated a fishing expedition to search for nonexistent code violations at Grand’s house. Rep.App.44–46. The Mayor announced that the cease-and-desist order against Grand’s in-home prayer gathering was still in effect, Pet.App.143a; Rep.App.19 n.2, and encouraged

² City of University Heights, Planning Commission, at 2:39:15–18. (YouTube, Mar. 4, 2021), <https://www.youtube.com/watch?v=D5kP12aBUUY&themeRefresh=1>; see also *id.* at 1:33:50–59, 1:55:30–35, 2:30:54–59, 2:39:20–26.

neighbors to monitor Grand’s home for signs that he was assembling co-religionists to pray or worship, Pet.App.34a, 143a. And yet some circuits would hold that more waiting is required before Grand can seek relief for loss of his First Amendment rights.

Against this backdrop, the slightest allowance for religious animus through procedural gymnastics is an invitation to invidious discrimination. Even concealed animus against religious exercise is offensive to the First Amendment, and “[t]he Free Exercise Clause protects against governmental hostility which is masked, as well as overt.” *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 534 (1993).

The atmosphere of antisemitism cries out for a remedy here. And a ruling for Petitioner will additionally resolve a problematic circuit split in a way that ensures relief in free-exercise cases from the moment an individual’s core right has been violated, as the First Amendment demands.

ARGUMENT

I. Antisemitism is a uniquely rampant form of religious animus.

According to the Anti-Defamation League’s tracking of antisemitic violence, harassment, and vandalism, 2025 was the third-highest year for these incidents since recording began nearly fifty years ago.³

³ Anti-Defamation League, *Audit of Antisemitic Incidents 2025*, ADL (May 6, 2026), <https://www.adl.org/resources/report/audit-antisemitic-incidents-2025>.

On average, seventeen recorded antisemitic incidents occurred per day in the United States last year. *Id.* That statistic is more than double the rate of antisemitic incidents from 2020 to 2022. *Id.* The numbers tell a story that any attentive American knows: the attacks of October 7, 2023, in Israel sparked a pandemic of anti-Israel sentiment, and the hatred has proved contagious across the United States.

Antisemitic acts in the U.S. are not only rising in sheer count; they are becoming ubiquitous. ADL’s tracker reports incidents in public areas, private businesses, Jewish institutions, K-12 schools, colleges and universities, government buildings, and elsewhere.⁴ This means that Jewish Americans are targets no matter how young or old, and no matter where they go. Schoolchildren, college students, synagogue congregants, pedestrians, government workers, restaurant patrons, small business owners—no person of Israeli or Jewish background is immune.

A. Extensive data show widespread personal targeting of Jewish Americans.

Each data point represents a human being (or several) targeted for their religious identity. Each story is stomach-turning. A survey of parents of K-12 schoolchildren found that 71% of Jewish parents and 37% of non-Jewish parents reported their children witnessing antisemitism at school.⁵ What that looks

⁴ Anti-Defamation League, *Audit of Antisemitic Incidents 2024*, ADL (Apr. 22, 2025), <https://www.adl.org/resources/report/audit-antisemitic-incidents-2024>.

⁵ Anti-Defamation League, *Antisemitism in Schools and Support for Holocaust Education*, ADL (Dec. 23, 2024), <https://www.adl.org/resources/report/antisemitism-in-schools-and-support-for-holocaust-education>.

like on the ground is sorrowful. As just one illustration, in a Florida county, Jewish students at multiple public schools were met with Nazi salutes, swastikas drawn in textbooks, spoof yarmulkes, repeated stereotyped insults, and conspiracy theories about Jews.⁶

The situation is worse at universities, where 47% of Jewish undergraduates reported experiencing at least one form of prejudice on campus during the 2025–2026 academic year.⁷ Studies confirm that the hostility toward Jews on college campuses rose sharply after October 7.⁸ Meanwhile, in places of public accommodation, both Jewish customers and proprietors have suffered hateful encounters—more than 1,500 times in the past two years.⁹ Each incident represents a moment of shock, shame, and fear, like what Michael Radice faced when he was berated for being

adl.org/resources/report/antisemitism-schools-and-support-holocaust-education.

⁶ Press Release, U.S. Dep’t of Educ., *U.S. Department of Education Initiates Investigation into Bay County, Florida School District for Alleged Antisemitic Discrimination* (May 8, 2026), <https://www.ed.gov/about/news/press-release/us-department-of-education-initiates-investigation-bay-county-florida-school-district-alleged-antisemitic-discrimination>.

⁷ Graham Wright et al., *Antisemitism and Prejudice on Campus*, Cohen Ctr. for Mod. Jewish Stud., 1 (2026), <https://doi.org/10.48617/rpt.1500>.

⁸ Graham Wright et al., *In the Shadow of War: Hotspots of Antisemitism on US College Campuses*, Cohen Ctr. for Mod. Jewish Stud., 3 (2023), <https://doi.org/10.48617/rpt.1072>.

⁹ Anti-Defamation League, *supra* note 3.

Jewish and refused service in a San Francisco coffee shop.¹⁰

The Federal Bureau of Investigation’s analysis of hate crime data backs up these reports. Bias-motivated crimes categorized as “Anti-Jewish” range from destruction of property to larceny to aggravated assault—and there are thousands of them annually.¹¹ The hate crimes occur at homes, schools, and temples, and on roads, alleys, and sidewalks.¹² And these crimes represent only what’s been formally relayed to law enforcement agencies and collected by the Federal Bureau of Investigation’s Uniform Crime Reporting Program.¹³

B. Antisemitic incidents in public view and online victimize Jewish Americans en masse.

Some anti-Jewish offenses inflict sweeping fear. Public-facing vandalism, graffiti, and property damage may victimize dozens or hundreds of Jewish

¹⁰ Press Release, Anti-Defamation League, ADL (Feb. 27, 2025), *ADL and Benesch Sue Oakland Cafe for Discriminating Against Jewish Customer*, <https://www.adl.org/resources/press-release/adl-and-benesch-sue-oakland-cafe-discriminating-against-jewish-customer>.

¹¹ Fed. Bureau of Investigation, *Hate Crime in the United States*, FBI Crime Data Explorer, <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/hate-crime> (last visited July 10, 2026).

¹² *Id.*

¹³ Fed. Bureau of Investigation, *Crime/Law Enforcement Stats (Uniform Crime Reporting Program)*, FBI, <https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/ucr> (last visited July 10, 2026).

passersby. The disturbing stories are legion. At Los Angeles's iconic Canter's deli, antisemitic graffiti was painted in numerous messages on the parking lot wall.¹⁴ Just a few weeks ago, in Jackson Hole, Wyoming, business owner David Ben David found a swastika inside a Star of David drawn on his store's back door.¹⁵ When a building wall is defaced with a swastika, any number of people see and understand the message.

Jewish places of worship have received bomb threats and violent attacks, sometimes forcing evacuations during religious services,¹⁶ causing fires and endangering children,¹⁷ or killing congregants.¹⁸ Last

¹⁴ Salvador Hernandez & Summer Lin, *Antisemitic Graffiti at Canter's Deli Investigated as Possible Hate Crime*, L.A. Times (Nov. 1, 2023, at 16:49 PT), <https://www.latimes.com/california/story/2023-11-01/canters-deli-antisemitic-graffiti-los-angeles-jewish-business-israel-hamas>.

¹⁵ Alex Viveros, *Jackson Business Defaced with Antisemitic Symbol*, Jackson Hole News & Guide (July 10, 2026), https://www.wyomingnews.com/news/local_news/jackson-business-defaced-with-antisemitic-symbol/article_7de36741-f1eb-4620-a1b2-47099a490a01.html.

¹⁶ Andrew Lapin, *At Least 49 Synagogues Have Been Evacuated Due to Bomb Threats in the Last 2 Months. Next Up, the High Holidays*, Jewish Herald-Voice (Sept. 14, 2023), <https://jhvonline.com/at-least-synagogues-have-been-evacuated-due-to-bomb-threats-in-the-last-p32390-164.htm>.

¹⁷ *Synagogue Attack Prompts Prominent Police Presence at Jewish Sites Across Tri-State Area*, ABC7 Eyewitness News (Mar. 13, 2026), <https://abc7ny.com/post/nypd-increases-patrols-jewish-sites-synagogue-attack-bloomfield-michigan/18709290/>.

¹⁸ Peter Smith, *Mass Shooter Found Guilty of Murdering 11 People at Tree of Life Synagogue in 2018*, PBS News (June 16, 2023, at 14:00 ET), <https://www.pbs.org/newshour/nation/mass-shooter->

year, two young Israeli Embassy staffers were killed in a terrorist attack at the Capital Jewish Museum in Washington, D.C. The murderer yelled anti-Israeli remarks after the attack.¹⁹ Petitioner Grand himself was well aware of terrorist attacks targeting Jewish communities and reasonably feared going into synagogue for that reason. Rep.App.36–37.

Hateful mobs in the streets—even when gathered for expression within the First Amendment’s bounds—can project antisemitic sentiment throughout neighborhoods and communities. Calls for destruction of Israel likewise cause ripple effects, because the “rhetoric can be traumatizing to many American Jews and has led to their exclusion from some spaces simply because of ... how they define and express their Jewishness.”²⁰ So regardless of whether particular individuals are targeted or threats are generalized, an environment of invidious discrimination can evolve.

When it comes to antisemitism online, the malicious conduct spreads far and wide. Take last year: nearly three-quarters of Jewish Americans experienced antisemitism while online, whether by viewing

found-guilty-of-murdering-11-people-at-tree-of-life-synagogue-in-2018.

¹⁹ Pierre Thomas et al., *2 Israeli Embassy Staffers Killed in ‘Act of Terror’ in Washington, DC*, ABC News (May 22, 2025, at 17:45 ET), <https://abcnews.com/US/2-shot-fbi-field-office-washington-dc/story?id=122059162>.

²⁰ Anti-Defamation League, *Audit of Antisemitic Incidents 2025* 15 (2026), https://02b2471c-5884-4aaa-b800-1c30933c211b.filesusr.com/ugd/42334e_670468ebceb14d499259aa6ef2a386d5.pdf.

it, hearing it, or being directly targeted.²¹ Nearly a quarter of American Jews felt physically threatened by internet content, with more than one-third of young Jewish adults reporting fear for their physical safety.²² And among the general public, 45% say they saw or heard antisemitism online during 2025—the vast majority of it seen or heard on websites or digital applications.²³ The vitriol lurks on seemingly every social media platform: Facebook, YouTube, X, Instagram, and TikTok.²⁴

AI-generated content has amplified online hate toward Jews. Independent nonprofit Cyberwell compiled more than 300 AI-generated social media posts and calculated that they had been viewed by users over 30 million times.²⁵ One-third of the posts either called for or justified violence against Jews.²⁶ Three-quarters of the dataset comprised conspiratorial or stereotyping portrayals.²⁷ The Cyberwell research identified a sharp rise in hateful and violent rhetoric against Jews starting in mid-2025, signaling an

²¹ Am. Jewish Comm., *The State of Antisemitism in America* 2 (2026), https://www.ajc.org/sites/default/files/pdf/2026-04/SOAR2025-Social-Media-Report_v9-DIGITAL.pdf.

²² *Ibid.*

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ CyberWell, *AI-Generated Antisemitism: Abuse Trends and Safety Gaps Across Social Media and AI Platforms* 4 (2026), https://storage.googleapis.com/cw_website_bucket/reports/ai-generated-antisemitism/AI-Generated-Antisemitism_CyberWell-12.5.2026.pdf.

²⁶ *Id.* at 5.

²⁷ *Ibid.*

“inflection point in both the volume and normalization of AI-generated antisemitism online.”²⁸ With the low barrier to entry to digital spaces, and the cheap exponential scaling of output, artificial intelligence online may be today’s most dangerous variety of propagation.

C. External characteristics of Jews make for easy identification and discrimination.

Any way you quantify it, antisemitism in the U.S. is metastasizing. ADL’s comprehensive 2024 audit showed that reported antisemitic incidents had increased 893% over the past decade.²⁹ More acutely, since 2023, ADL has filed more cases representing victims of antisemitism than it filed in its entire 113-year history.³⁰ The Presidential Religious Liberty Commission’s June 2026 draft report—prepared based on extensive public hearings and comment—details “sobering testimony regarding the dangerous rise of anti-Semitism in American life.”³¹ It is no surprise, then, that 79% of Jewish Americans report being deeply concerned about antisemitism—and 52% are concerned for their personal safety.³² They know they are vulnerable targets of hate.

²⁸ *Id.* at 4.

²⁹ Anti-Defamation League, *supra* note 4.

³⁰ Anti-Defamation League, *supra* note 3.

³¹ Presidential Religious Liberty Comm’n, *Americans’ First Freedom* 19 (2026), <https://www.justice.gov/religious-liberty-commission/media/1449896/dl?inline>.

³² Anti-Defamation League & Jewish Federations of North America, *Portrait of Antisemitic Experiences in the U.S., 2024-2025* 14 (2025), [https://cdn-assets.fedwebplatform.org/fed-1/1/FINAL%](https://cdn-assets.fedwebplatform.org/fed-1/1/FINAL%20Portrait%20of%20Antisemitic%20Experiences%20in%20the%20U.S.%202024-2025.pdf)

Discriminating against Jews may be easier because they are likely to be identifiable by sight. Jewish Americans can be spotted near synagogues, kosher bakeries, Jewish schools, and certain neighborhoods. They may wear yarmulkes. Orthodox Jews like Mr. Grand are known to walk on Shabbat and High Holidays—their beliefs forbid driving or riding in motor vehicles, or using public transit. Rep.App.8.³³ Orthodox men and women alike observe a modesty command, *tzniut*, wearing dark colors and recognizable garments like a *tzitzit* (fringed shirt-like garment) for males, or a *sheitel* (wig) or *tichel* (scarf) head covering for married females.³⁴ Based on commands from Leviticus, Orthodox Jewish men maintain long beards and, often, sidecurls or *peiyot*.³⁵ And while, as with any ethnoreligious group, Jews enjoy diverse physical traits based on their geographic background and particular ancestry, there are still some features that correlate with Jewish identity—again making them vulnerable to antisemitic targeting by strangers.

Still other superficial characteristics of Jewish identity can increase targeting. Many names are known to be more common among families with

2520-%2520Portrait%2520of%2520Antisemitism%2520in%2520the%2520US.pdf.

³³ *Ask the Expert: Public Transit on Shabbat*, My Jewish Learning, <https://www.myjewishlearning.com/article/ask-the-expert-public-transit-on-shabbat/> (last visited July 11, 2026).

³⁴ *Jewish Clothing*, My Jewish Learning, <https://www.myjewishlearning.com/article/jewish-clothing/> (last visited July 11, 2026).

³⁵ Rabbi Jack Abramowitz, *Why Do Orthodox Jewish Men Have Sidecurls?*, Jew In The City (June 4, 2018), <https://jewinthecity.com/2018/06/why-do-orthodox-jewish-men-have-sidecurls/>.

Jewish ancestry, enabling probable associations based on simply learning someone's surname or, often, given name. Similarly, if within an audible range, a person speaking Yiddish or Hebrew can unwittingly expose themselves to an antisemitic troublemaker nearby. When your physical appearance, name (wherever it may be seen or recorded), and speech can create a bullseye on your back, nowhere is safe. For Grand, even his own home became a place of predation for his Jewish faith.

Like Grand, his co-religionists have been spotted in their own neighborhoods, deemed undesirable, and schemed against for expulsion using facially neutral regulations. Several years ago in Dallas, a small Orthodox Jewish community fought a five-year legal battle when a neighbor sought to prevent their congregational meetings by leveraging a municipal parking regulation—essentially suing to require parking spaces for Sabbath meetings for a group of people who do not drive on the Sabbath.³⁶ The city adjustment board unanimously denied a variance to Congregation Toras Chaim,³⁷ exposing the congregation to \$1,000 per day in civil penalties for failing to construct parking spots for its non-driving congregants.³⁸ Though the City of Dallas eventually settled, the relief came only after Congregation Toras Chaim suffered

³⁶ Verified Pet. for Writ Cert. & Original Pet. for Declaratory & Injunctive Relief 2-4, *Rich v. Dallas*, No. 219-02155-2018 (219th Dist. Ct., Collin Cnty., Tex. Apr. 30, 2018).

³⁷ *Id.* at 1.

³⁸ *Id.* at 7.

through years of litigation and hostility—from the government and other citizens pulling administrative levers—aimed at its Orthodox Jewish practices and with the express goal of ousting Jews and their synagogue from the area. Congregation Toras Chaim’s experience illustrates the danger Grand identifies: facially neutral regulations can become powerful instruments for excluding disfavored religious communities from the neighborhoods they call home.

II. Because antisemitism is being normalized, the risk of religious discrimination through superficially neutral laws and procedures is heightened.

In the past few years, antisemitism has been mainstreamed. Some research shows that the spread is not among a discrete group of Americans but rather among members of the far political left, the extreme political right, and certain Muslim and non-white communities.³⁹ At least one study of nearly 4,000 undergraduates found that “[b]eing hostile to Israel in an antisemitic way was very common among undergraduates who identified as extremely liberal,”⁴⁰ while also detecting “rhetoric on the political right that openly expresses prejudice and bigotry toward Jews.”⁴¹ The same study also observed “higher endorsement of *explicitly* anti-Jewish views among Muslim and non-white students.”⁴² Numerous strange

³⁹ Wright et al., *supra* note 7, at 2.

⁴⁰ *Id.* at 2.

⁴¹ *Id.* at 1.

⁴² *Id.* at 2.

bedfellows joining together in antisemitism means that the prejudice no longer tracks along traditional partisan or ideological lines, but instead is a multi-front campaign. And the more widespread and diversified the sources of prejudice are, the more likely Americans are to become desensitized to antisemitism. Soon it becomes easy to shrug or turn a blind eye when religious discrimination happens.

A. Antisemitism is accepted and even ignored in the U.S.

Even before October 7, adults in the U.S. reported antisemitism as fairly commonplace. In a 2021 survey by the American Jewish Committee, 50 percent of a nationally representative sample of respondents said that antisemitism was “somewhat” or a “very serious” problem.⁴³ Forty-four percent of those surveyed believed that antisemitism had increased “somewhat” or “a lot” in the five preceding years.⁴⁴ An alarming 41% of respondents reported having seen at least one incident of antisemitic conduct—“negative remarks or online content about Jewish people, or physical attacks on Jewish people or their religious facilities”—within the prior year.⁴⁵ More than one-third

⁴³ Am. Jewish Comm., *The State of Antisemitism in America 2021: AJC’s Survey of the General Public* 4 (2022), https://www.ajc.org/sites/default/files/pdf/2022-10/Antisemitism-Report-2021_Reader-10.22.pdf.

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

responded that antisemitism is considered less serious than other forms of bigotry.⁴⁶

Polling of attitudes since October 7 shows substantial skepticism toward Israel—closely linked, of course, with the Jewish people. For example, in a September 2025 survey of American adults, 36% said that their view most closely aligns with the statement that “Israeli policy seeks to harm civilians” or “is indifferent towards civilian casualties.”⁴⁷ Such sentiments of moral blame and culpability may be transferred to Jewish Americans consciously or unconsciously. Either way, the mental soil is fertile for growing seeds of antisemitism in minds across America.

So insidious is the mainstreaming of antisemitic views that the problem is underreported. When asked whether the statements “American Jews are...disloyal to America” and “The Holocaust has been exaggerated” are antisemitic, 27% and 18% of U.S. respondents, respectively, said no.⁴⁸ In other words, roughly one in four or one in five Americans view patently anti-Jewish claims as either neutral or true. Those attitudinal measurements correspond to an under-measurement of antisemitism: it simply is not recognized even where it exists.

⁴⁶ *Ibid.*

⁴⁷ Zach Goldberg, Ryan Owens & Lynn Woodworth, *Perceived Intent: How Americans View Israel’s Actions in Gaza*, Florida State University Institute for Governance and Civics, 2 (2025), https://igc.fsu.edu/sites/default/files/2025-12/IGC_Report6_Israel_V2.pdf.

⁴⁸ Am. Jewish Comm., *supra* note 43.

B. Antisemitism is underreported, even by those who suffer its harms.

But perceiving antisemitism is not enough; those who are affected by it also underreport. In a survey of the general public, more than 60% of those who saw antisemitic material online in 2025 admit they did not report it to the digital services provider—even if the hateful content violated the provider’s terms of service.⁴⁹ Sadly, 65% of Jewish Americans didn’t report it either.⁵⁰ The situation appears more dire among young people facing antisemitism in person. A 2025 national survey found that 92.5% of students who had witnessed antisemitic incidents firsthand on campus did not report it to campus authorities.⁵¹ The reasons for underreporting could be many, including fear and distrust of authorities. For Jewish college students, half said they felt “very” or “extremely” uncomfortable with people knowing their Jewish identity—and 41% admitted feeling the need to actively hide it.⁵² This is no surprise, when university administrators across the country exhibited nonchalance toward the anti-

⁴⁹ Am. Jewish Comm., *supra* note 21, at 10.

⁵⁰ *Id.* at 9.

⁵¹ *83% of Jewish College Students Have Experienced or Witnessed Antisemitism Firsthand Since Oct. 7 Attack, Survey Finds*, Hillel International (Jan. 30, 2025), <https://www.hillel.org/83-of-jewish-college-students-have-experienced-or-witnessed-antisemitism-firsthand-since-oct-7-attack-survey-finds/>.

⁵² *Ibid.*

Israel protests and harassment, even when calling for the death of Jews.⁵³

A culture of indifference toward antisemitism may explain why rampant discrimination throughout society goes unreported. More than half of Americans who saw antisemitic content on social media but stayed silent say they did so because they “didn’t think anything would be done.”⁵⁴ In the workplace, underreporting by Jewish employees may be attributed to fear of retaliation. And even where Jews successfully raise claims of antisemitism at work, their employer may require a non-disclosure agreement that prevents the harm from being made public.⁵⁵ But silence only perpetuates the cycle of antisemitism and allows it to spread without resistance.

⁵³ Staff of U.S. House Comm. on Educ. & the Workforce, *Antisemitism on College Campuses Exposed* 1-3, 5 (2024), https://edworkforce.house.gov/uploadedfiles/10.30.24_committee_on_education_and_the_workforce_republican_staff_report_-_antisemitism_on_college_campuses_exposed.pdf; see also, e.g., *Gartenberg v. Cooper Union for the Advancement of Sci. & Art*, 765 F. Supp. 3d 245, 275-76 (S.D.N.Y. 2025), reconsideration denied, 2025 WL 602945 (S.D.N.Y. Feb. 25, 2025) (holding Jewish students plausibly alleged that private college was deliberately indifferent to antisemitic harassment on campus).

⁵⁴ Am. Jewish Comm., *supra* note 21, at 11–15.

⁵⁵ Deedee Bitran, *There Is Massive Antisemitism in the Workplace; Here’s What You Need to Know*, *Algemeiner* (June 4, 2025, at 11:30 ET), <https://www.algemeiner.com/2025/06/04/there-is-massive-antisemitism-in-the-workplace-heres-what-you-need-to-know/>.

C. Institutional antisemitism magnifies the risk of official discrimination.

And while the shocking variety of prejudiced acts may suggest isolated incidents, other data indicate deep-seated antisemitic ideological capture in certain segments of the population. For example, research on K-12 schools identifies widespread antisemitic attitudes that are “institutional and political.”⁵⁶ The findings suggest that control by “radical activists”⁵⁷ drives suppression of dissent and erosion of civic norms.⁵⁸ The problem is worse in metropolitan areas, where certain ideologies are “entrenched”⁵⁹ through teachers’ unions, licensure and training, and curriculum.⁶⁰ As just one example—but an alarming one—after October 7, America’s largest teachers’ union, the National Education Association, “promoted resources that removed Israel from maps, amplified groups with extremist ties, and circulated narratives that defended the October 7th attacks.”⁶¹ With powerful influences like that, one can imagine the cascading effect of hate flooding the public school system.

⁵⁶ N. Am. Values Institute, *When the Classroom Turns Hostile: A Strategic Response to Extremism and Antisemitism in K-12 Education*, 4 (2026), https://02b2471c-5884-4aaa-b800-1c30933c211b.filesusr.com/ugd/42334e_173e494fbd6742f5b9d714ed1f78dab0.pdf.

⁵⁷ *Id.* at 8.

⁵⁸ *Id.* at 4.

⁵⁹ *Ibid.*

⁶⁰ *Id.* at 15.

⁶¹ *Ibid.*

In New York City, Mayor Zohran Mamdani is using political power to marginalize Jews. Mayor Mamdani recently appointed an eighteen-member judicial advisory committee containing zero Jewish members.⁶² This exclusion is striking. Not only is New York City the largest urban Jewish community in the world—with Jews constituting roughly 12% of the city’s population—but it is also home to a full quarter of all American Jews.⁶³ For a significant religious and ethnic group to have no representation on an important governmental body is almost certainly intentional.

The mainstreaming of antisemitism and its natural subconscious effects make relief for Grand even more critical here. Rigid enforcement of protections for First Amendment rights is especially necessary when purportedly neutral regulations and technical administrative procedures may be masking underlying discriminatory motives.

* * *

As George Washington wrote to the Hebrew Congregation of Newport, Rhode Island: “It is now no more that toleration is spoken of, as if it was by the indulgence of one class of people, that another enjoyed

⁶² Corey Walker, *Mamdani Again Under Fire for Excluding Jews from Judicial Advisory Committee*, *Algemeiner* (July 28, 2026, at 17:49 ET), <https://www.algemeiner.com/2026/07/28/mamdani-under-fire-for-excluding-jews-from-judicial-advisory-committee/>.

⁶³ Leonard Saxe et al., *American Jewish Population Estimates 2020: Summary & Highlights*, Steinhardt Soc. Rsch. Institute, 9 (2020), <https://ajpp.brandeis.edu/documents/2020/JewishPopulationDataBrief2020.pdf>.

the exercise of their inherent natural rights.”⁶⁴ That reframing, from toleration-as-grace to free exercise as an inherent natural right, is the intellectual pivot the Free Exercise Clause embodies, stated by the then-sitting president to a Jewish congregation. Turning back to toleration, let alone intolerance, is not something the First Amendment permits.

CONCLUSION

The Court should reverse the Sixth Circuit’s decision.

Respectfully submitted,

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⁶⁴ Letter from George Washington to the Hebrew Congregation in Newport, Rhode Island (Aug. 21, 1790), <https://founders.archives.gov/documents/Washington/05-06-02-0135>.