

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

U.S. EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION,  
Petitioner,

v.

THE TRUSTEES OF THE UNIVERSITY  
OF PENNSYLVANIA,  
Respondent.

Case No. 2:25-cv-06502 (GJP)

**MOTION TO INTERVENE AS DEFENDANTS**

The American Academy of Jewish Research, the Jewish Law Students Association of the University of Pennsylvania Carey Law School, the National and University of Pennsylvania chapters of the American Association of University Professors, and the Penn Association of Senior and Emeritus Faculty (the “Proposed Intervenors”) hereby move to intervene as defendants in this action. The Proposed Intervenors seek intervention as of right pursuant to Rule 24(a) of the Federal Rules of Civil Procedure, or, in the alternative, pursuant to Rule 24(b). In support of this Motion, the Proposed Intervenors rely on the accompanying Memorandum of Law filed herewith, and the declarations attached thereto, which is intended to be incorporated as if set forth herein.

The University of Pennsylvania has consented to the Proposed Intervenors intervention in this action. The EEOC refused to consent to intervention.

WHEREFORE, the Proposed Intervenors respectfully request that the Court grant their Motion and permit them to intervene as defendants in this action.

Respectfully submitted,

Dated: January 13, 2026

Harold Craig Becker  
Norman L. Eisen  
Democracy Defenders Fund  
600 Pennsylvania Ave., S.E., No. 15180  
Washington, D.C. 20003  
(202) 594-9958  
norm@democracydefenders.org  
craig@democracydefenders.org

Seth Kreimer  
3501 Sansom St.  
Philadelphia, PA 19104  
(215) 898-7447  
skreimer@law.upenn.edu

By: /s/ Matthew A Hamermesh  
Mark A. Aronchick  
Matthew A Hamermesh  
Eitan G. Kagedan  
HANGLEY ARONCHICK SEGAL  
PUDLIN & SCHILLER  
One Logan Square, 27<sup>th</sup> Floor  
Philadelphia, PA 19103-6933  
(215) 568-6200  
maronchick@hangley.com  
mhamermesh@hangley.com  
ekagedan@hangley.com

Witold J. Walczak  
Stephen Loney  
Ariel Shapell  
AMERICAN CIVIL LIBERTIES UNION  
OF PENNSYLVANIA  
P.O. Box 60173  
Philadelphia, PA 19102  
(215) 592-1513  
vwalczak@aclupa.org  
sloney@aclupa.org  
ashapell@acluepa.org

Amanda Shanor  
3730 Walnut Street  
Philadelphia, PA 19104  
203-247-2195  
shanor@upenn.edu

*Counsel for the Proposed Intervenors*

**CERTIFICATE OF SERVICE**

I, Matthew A Hamermesh, hereby certify that on this 13th day of January, 2026, I caused to be filed a true and correct copy of the foregoing MOTION TO INTERVENE via the Court's electronic filing system, which will serve a copy on all counsel of record.

Dated: January 13, 2026

Respectfully submitted,

*/s/ Matthew A Hamermesh*

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

U.S. EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION,  
Petitioner,

v.

THE TRUSTEES OF THE UNIVERSITY  
OF PENNSYLVANIA,  
Respondent.

Case No. 2:25-cv-06502 (GJP)

**MEMORANDUM OF LAW IN SUPPORT OF MOTION TO  
INTERVENE AS DEFENDANTS OF THE AMERICAN ACADEMY  
OF JEWISH RESEARCH, THE JEWISH LAW STUDENTS  
ASSOCIATION OF THE UNIVERSITY OF PENNSYLVANIA  
CAREY LAW SCHOOL, THE NATIONAL AND UNIVERSITY OF  
PENNSYLVANIA CHAPTERS OF THE AMERICAN  
ASSOCIATION OF UNIVERSITY PROFESSORS, AND THE PENN  
ASSOCIATION OF SENIOR AND EMERITUS FACULTY**

Mark A. Aronchick  
Matthew A Hamermesh  
Eitan G. Kagedan  
HANGLEY ARONCHICK SEGAL  
PUDLIN & SCHILLER  
One Logan Square, 27<sup>th</sup> Floor  
Philadelphia, PA 19103-6933  
(215) 568-6200  
maronchick@hangley.com  
mhamermesh@hangley.com  
ekagedan@hangley.com

Harold Craig Becker  
Norman L. Eisen  
DEMOCRACY DEFENDERS FUND  
600 Pennsylvania Ave., S.E., No. 15180  
Washington, D.C. 20003  
(202) 594-9958  
norm@democracydefenders.org  
craig@democracydefenders.org

Witold J. Walczak  
Stephen Loney  
Ariel Shapell  
AMERICAN CIVIL LIBERTIES UNION  
OF PENNSYLVANIA  
P.O. Box 60173  
Philadelphia, PA 19102  
(215) 592-1513  
vwalczak@aclupa.org  
sloney@aclupa.org  
ashapell@aclupa.org

Seth Kreimer  
3501 Sansom St.  
Philadelphia, PA 19104  
Telephone: (215) 898-7447  
skreimer@law.upenn.edu

Amanda Shanor  
3730 Walnut Street  
Philadelphia, PA 19104  
203-247-2195  
shanor@upenn.edu

## TABLE OF CONTENTS

<b>I.</b>	<b>INTRODUCTION .....</b>	1
<b>II.</b>	<b>BACKGROUND.....</b>	4
	<b>A. The EEOC Subpoena .....</b>	4
	<b>B. The Proposed Intervenors.....</b>	5
<b>III.</b>	<b>ARGUMENT.....</b>	8
	<b>A. The Proposed Intervenors Are Entitled to Intervene as a Matter of Right .....</b>	8
	1. <b>The Motion to Intervene is Timely .....</b>	8
	2. <b>The Proposed Intervenors Have Substantial Interests in the Underlying Litigation .....</b>	9
	3. <b>Disposition of this Case is Likely to Impair the Interests of the Proposed Intervenors .....</b>	13
	4. <b>The Interests of Existing Defendant Penn Diverges from Those of Proposed Intervenors.....</b>	13
	<b>B. In the Alternative, the Court Should Grant Permissive Intervention .....</b>	16
<b>IV.</b>	<b>CONCLUSION .....</b>	18

## TABLE OF AUTHORITIES

	Page(s)
<b>Cases</b>	
<i>American Farm Bureau Federation v. Environmental Protection Agency</i> , 278 F.R.D. 98 (M.D. Pa. 2011).....	14, 15, 16
<i>Americans for Prosperity Found. v. Bonta</i> , 594 U.S. 595 (2021).....	10
<i>Brumfield v. Dodd</i> , 749 F.3d 339 (5th Cir. 2014) .....	13
<i>Choike v. Slippery Rock University of Pennsylvania of State System of Higher Education</i> , 297 F. App'x 138 (3d Cir. 2008) .....	9
<i>Common Cause of Pennsylvania, v. Commonwealth of Pennsylvania</i> , 558 F.3d 249 (3d Cir. 2009).....	10
<i>Commonwealth of Pennsylvania, v. President United States of America</i> , 888 F.3d 52 (3d Cir. 2018).....	10
<i>Community Vocational Schools of Pittsburgh, Inc. v. Mildon Bus Lines, Inc.</i> , No. 09-cv-1572, 2017 WL 1376298 (W.D. Pa. Apr. 17, 2017) .....	9
<i>Constand v. Castor</i> , No. 15-cv-5799, 2016 WL 5681454 (E.D. Pa. Oct. 3, 2016) .....	8
<i>Doe No. 1 v. Noem</i> , No. 25-1962, 2025 WL 1574916 (E.D. Pa. May 20, 2025).....	12
<i>Donald J. Trump for President, Inc. v. Boockvar</i> , No. 2:20-cv-966, 2020 WL 14069341 (W.D. Pa. Aug. 3, 2020).....	17
<i>Food &amp; Drug Administration v. Alliance for Hippocratic Medicine</i> , 602 U.S. 367 (2024).....	12
<i>In re Grand Jury Matter</i> , 770 F.2d 36 (3d Cir. 1985).....	11
<i>Greene v. Phila. Hous. Auth.</i> , 789 F. Supp. 2d 582 (E.D. Pa. 2011) .....	11
<i>Havens Realty Corp. v. Coleman</i> , 455 U.S. 363 (1982).....	12

<i>Hoots v. Commonwealth of Pennsylvania,</i> 672 F.2d 1133 (3d Cir. 1982).....	13
<i>Indian River Recovery Co. v. The China,</i> 108 F.R.D. 383 (D. Del. 1985) .....	10
<i>Kleissler v. U.S. Forest Service,</i> 157 F.3d 964 (3d Cir. 1998).....	8
<i>Kobach v. U.S. Election Assistance Commission,</i> No. 13-cv-4095, 2013 WL 6511874 (D. Kan. Dec. 12, 2013) .....	15
<i>Landau v. Corporation of Haverford College,</i> No. 24-2044, 2024 WL 5108442 (E.D. Pa. Dec. 13, 2024).....	12
<i>Meek v. Metropolitan Dade County, Fla.,</i> 985 F.2d 1471 (11th Cir. 1993) .....	15
<i>National Association for the Advancement of Colored People v. State of Alabama ex rel. Patterson,</i> 357 U. S. 449 (1958).....	12
<i>National Labor Relations Board v. PNC Bank, N.A.,</i> No. 3:21-MC-15(JAM), 2021 WL 6502553 (D. Conn. July 23, 2021).....	17
<i>Pleasant Gardens Realty Corp. v. H. Kohnstamm &amp; Co.,</i> No. CIV. 08-5582JHRJS, 2009 WL 2982632 (D.N.J. Sep. 10, 2009) .....	11
<i>Brody ex rel. Sugzdnis v. Spang,</i> 957 F.2d 1108 (3d Cir. 1992).....	13, 16
<i>Trbovich v. United Mine Workers of America,</i> 404 U.S. 528 (1972).....	13
<i>United States v. Alcan Aluminum, Inc.,</i> 25 F.3d 1174 (3d Cir. 1994).....	10
<i>United States v. Territory of Virgin Islands,</i> 748 F.3d 514 (3d Cir. 2014).....	8, 13, 14
<i>Wallach v. Eaton Corp.,</i> 837 F.3d 356 (3d Cir. 2016).....	9
<i>Wm. T. Thompson Co. v. General Nutrition Corp.,</i> 671 F.2d 100 (3d Cir. 1982).....	11

**Rules, Statutes, and Other Authorities**

29 C.F.R. § 101.16.....	5
Fed. R. Civ. P. 24.....	<i>passim</i>
U.S. CONST., amend. I .....	<i>passim</i>
Alan Blinder, <i>How Universities Are Responding to Trump</i> , NEW YORK TIMES (Dec. 1, 2025), <a href="https://www.nytimes.com/article/trump-university-college.html">https://www.nytimes.com/article/trump-university-college.html</a> .....	14, 15
Alan Wise, <i>Trump Administration suspends \$175 million in funding to University of Pennsylvania over trans athletes</i> , NPR (March 20, 2025), <a href="https://www.npr.org/2025/03/20/nx-s1-5333675/university-pennsylvania-penn-trump-suspends-funding-trans-student-athletes">https://www.npr.org/2025/03/20/nx-s1-5333675/university-pennsylvania-penn-trump-suspends-funding-trans-student-athletes</a> .....	14

The American Academy of Jewish Research, the Jewish Law Students Association of the University of Pennsylvania Carey Law School, the National and University of Pennsylvania chapters of the American Association of University Professors, and the Penn Association of Senior and Emeritus Faculty (the “Proposed Intervenors”) submit this memorandum of law in support of their Motion to Intervene as Defendants pursuant to Rule 24(a) of the Federal Rules of Civil Procedure, or, in the alternative, pursuant to Rule 24(b).<sup>1</sup>

## **I. INTRODUCTION**

On July 23, 2025, the U.S. Equal Employment Opportunity Commission (“EEOC”) issued a subpoena to the Trustees of the University of Pennsylvania (“Penn” or the “University”) demanding, among other things, that Penn create and turn over a list of all its Jewish and Jewish-affiliated campus organizations, together with a roster of their members. Specifically, the Subpoena sought, among other things, (1) a comprehensive list of all Jewish-related clubs, groups, organization, or recreation groups, together with the name of every member; (2) the names of all employees affiliated with Penn’s Jewish Studies Program; (3) a list of faculty and staff who participated in confidential Listening Sessions held in March 2024 as part of Penn’s Task Force on Antisemitism (“TFAS”) and notes from those meetings; and (4) a list of faculty and staff who received a survey from TFAS. The EEOC Subpoena also sought contact information, including *personal* email addresses, phone numbers, and mailing addresses, for each individual so identified. In

---

<sup>1</sup> Notwithstanding this Motion, the Proposed Intervenors reserve the right to contend that, because of their interests in the Subpoena, they have a right to appear and oppose the Subpoena without needing to seek formal intervention. They submit this Motion only to protect their right to oppose the Subpoena if any other party opposes their participation in this action without intervention.

effect, these requests would require Penn to create and turn over a centralized registry of Jewish students, faculty, and staff – a profoundly invasive and dangerous demand that intrudes deeply into the freedoms of association, religion, speech, and privacy enshrined in the First Amendment. Such compelled disclosure will be experienced as a visceral threat to the safety of those who would find themselves so identified because compiling and turning over to the government “lists of Jews” conjures a terrifying history.

The Proposed Intervenors are five organizations whose members include Jewish students, faculty, and staff whose identities, personal information, safety, and fundamental Constitutional rights are directly threatened by the EEOC’s Subpoena. The Proposed Intervenors are:

- The American Academy of Jewish Research (“AAJR”)
- The Jewish Law Students Association of the University of Pennsylvania Carey Law School (“JLSA”)
- The American Association of University Professors (“AAUP”)
- The University of Pennsylvania chapter of the AAUP (“AAUP-Penn”)
- The Penn Association of Senior and Emeritus Faculty (“PASEF”)

The membership of the Proposed Intervenors consists of individuals from across the religious, ideological, and political spectrum, united in the fight to protect the identities and Constitutional rights of Penn’s Jewish community. These organizations do not challenge the EEOC Subpoena in all regards and understand that Penn will make its own arguments and objections to the EEOC’s efforts to obtain information regarding Penn’s Jewish community. That said, the Proposed Intervenors have a direct personal stake and a unique interest in safeguarding their members’ distinctive First Amendment

freedoms to associate and practice religion, and in protecting their personal information from disclosure to the EEOC, and, potentially, to other public entities and private actors.

The Proposed Intervenors are entitled to intervene directly and on behalf of their members as of right under Rule 24 because their motion is timely, their and their members' rights and interests are squarely at stake, and those rights and interests are not adequately represented by the existing defendant, Penn. The Proposed Intervenors' interests are unique because their members include the very people whose rights and safety are threatened by enforcement of the Subpoena – those whose names and contact information would appear on the lists the EEOC demands that Penn create and disclose. It is difficult to conceive of a group of intervenors with a stronger or more distinct and personal interest in ensuring that the EEOC's demand for a list of Jews and their personal contact information is turned away.

In addition, the Proposed Intervenors and their current members have a unique interest in resisting the EEOC's Subpoena because their future membership is threatened by the chilling effects of potential Subpoena enforcement. The prospect that the Subpoena or a similar future subpoena could be enforced will chill the Jewish community members' willingness to join and participate in these organizations for years to come.

The Proposed Intervenors have a unique, personal, and visceral motivation to interrogate the purpose, design, and necessity of the EEOC's request for lists of Penn's Jewish community members and their pedigree information (personal emails, telephone number, and home addresses). Their intervention is necessary to ensure the full development of the record here and aid the Court in its resolution of this case. While Penn has thus far resisted disclosure of the information requested by EEOC, the University's calculus could change under the pressure of financial and other sanctions threatened by

the federal government. Intervenors – whose personal information, interests and rights are most directly implicated – need to participate as full parties to defend their rights. Intervention as of right pursuant to Rule 24(a), or, in the alternative, permissive intervention pursuant to Rule 24(b), should be granted.

## II. BACKGROUND

### A. The EEOC Subpoena

On December 8, 2023, EEOC Chair Andrea Lucas issued Charge No. 530-2024-01963, which alleges that Penn is “subjecting Jewish faculty (including tenured, non-tenured, and adjunct professors), staff, and other employees (including, but not limited to, students employed by the University) to an unlawful hostile work environment based on national origin, religion, and/or race.” *See* Attachment A to Exhibit 1 of the EEOC’s Application for an Order to Show Cause (ECF 1).

On July 23, 2025, after informal discussions between EEOC and Penn concerning production of information proved unsuccessful, the EEOC issued the administrative subpoena that is the subject of this Action – Subpoena No. PA-25-07 (the “Subpoena”). The Subpoena commands Penn to produce nine categories of documents, including five categories that directly threaten the Constitutional rights of the Proposed Intervenors and their members:

**Subpoena Item 2:** “Produce a list of all clubs, groups, organizations and recreation groups (hereinafter referred to as ‘organizations’) related to the Jewish religion, faith, ancestry/National Origin[,]” along with membership rosters and contact information.

**Subpoena Item 3:** “Produce a list of employees in the Jewish Studies Program at the University of Pennsylvania department during the period of November 1, 2022, to the present,” along with their contact information.

**Subpoena Item 4:** “Produce a list of staff and faculty members who participated in the Listening Sessions held in March 2024 as part of the University of

Pennsylvania Task Force on Antisemitism (TFAS)," along with their contact information.

**Subpoena Item 5:** "Produce all notes taken as part of the seven (7) listening sessions conducted in March 2024 as part of the University of Pennsylvania Task Force on Antisemitism (TFAS)."

**Subpoena Item 6:** "Produce a list of all faculty and staff members who received the University of Pennsylvania Task Force on Antisemitism's online Qualtrics survey," along with their contact information.

*See Attachment Q to Exhibit 1 of the EEOC's Application for an Order to Show Cause (ECF 1).*

Penn responded to the Subpoena on July 30, 2025, submitting a Petition to Revoke or Modify Subpoena pursuant to 29 C.F.R. § 101.16(b)(1). *See ECF 1-3 ¶ 15.* The EEOC responded to Penn's Petition on September 2, 2025, agreeing to partially modify the Subpoena but otherwise demanding compliance within 21 days thereof. *See Attachment S to Exhibit A of the EEOC's Application for an Order to Show Cause (ECF 1).*

On November 18, 2025, the EEOC initiated this administrative subpoena enforcement action by filing its Application for Order to Show Cause Why the EEOC's Administrative Subpoena Should Not Be Enforced (the "AOSC") (ECF 1). On January 5, 2026, the Court entered an Order directing that answers to the AOSC be filed on or before January 20, 2026 (ECF 13). The Proposed Intervenors intend to file a brief in response to the AOSC in accordance with that deadline.

## B. The Proposed Intervenors

The Proposed Intervenors are a diverse collection of organizations whose members include individuals who would be identified in response to the Subpoena requests described above, if it were enforced:

- Founded in 1920, the **AAJR** is the oldest organization of Jewish studies scholars in North America. Fellows are nominated and elected by their peers and thus

represent many of the most distinguished senior scholars teaching Jewish studies at American universities. AAJR's primary mission is to further scholarly research and writing on Jewish studies and to enhance the professional opportunities and development of scholars in the field. AAJR's programming includes convening sessions on topics of current scholarly interest at annual Jewish studies conferences; workshops and fellowships for junior scholars; online collections of scholarly papers; and awards of grants and prizes. Throughout its history, AAJR has undertaken humanitarian work on behalf of individual Jewish scholars who face danger and hardship due to war and oppression around the world, including assisting Jewish scholars fleeing Europe in the 1930s and 1940s and, most recently, Jewish studies scholar in Ukraine. *See AAJR Declaration*, attached hereto as Exhibit A.

- **JLSA** is a cultural, social, and non-denominational affinity group at Penn Carey Law that works to represent Jewish students and welcome students of all backgrounds and affiliations. JLSA's mission is to build a vibrant community within Penn Carey Law by providing programming of Jewish cultural, religious, social, charitable, legal, and educational significance. The organization hosts Friday night dinners, social events, lunch and learn sessions, distinguished speakers, and other programs. JLSA seeks to develop an awareness within the campus community of legal issues relevant to the Jewish community and the role of Jewish ethics and values in the professional world. By offering engaging and meaningful programming and by connecting students with other Jewish organizations and alumni, JLSA hopes to contribute to the wellbeing of Jewish students at the Law School, the broader Penn community, and the Philadelphia Jewish community in which the group operates. *See JLSA Declaration*, attached hereto as Exhibit B.
- **AAUP** is a nonprofit membership association and labor union of faculty, graduate students, and other academic professionals with chapters at colleges and universities throughout the country, including at Penn. The AAUP's mission is to protect its members in relation to all aspects of their relationship to their employers and federal, state, and local governments; advance academic freedom and shared governance; define fundamental professional values and standards for higher education; promote the economic security of faculty, academic professionals, graduate students, postdoctoral fellows, and all those engaged in teaching and research in higher education; help the higher education community organize to accomplish their goals; and ensure higher education's contribution to the common good. Founded in 1915, the AAUP has helped to shape American higher education by developing the standards and procedures that maintain quality in education and academic freedom in the country's colleges and universities. *See AAUP Declaration*, attached hereto as Exhibit C.
- **AAUP-Penn** is a Chapter of the national AAUP. It is a membership organization that advocates for the interests of Penn faculty in all aspects of their relationship with the University and for a just university that meets its obligations to the city and the community. The organization welcomes members from all departments

and all schools at Penn. This includes all those employed primarily in research and/or teaching at a professional level regardless of title, including standing faculty, contingent faculty, graduate researchers and instructors, postdocs, and librarians, archivists, curators, and technicians whose work involves or substantially contributes to research or teaching. AAUP-Penn's goals include promoting academic freedom and meaningfully shared university governance; improving working conditions; and building solidarity among university workers across ranks and job categories at Penn and across institutions. *See AAUP-Penn Declaration*, attached hereto as Exhibit D.

- **PASEF** is a membership organization of and for senior (age 55+), emeritus and retired faculty from all schools at Penn. PASEF encompasses both standing faculty and associated faculty. Many of PASEF's emeritus and retired members continue to teach and pursue active research within the University itself, and stay involved within the University. PASEF's membership is large and largely Philadelphia-based. As of July 2025, PASEF had 2,245 members, including 1,354 senior faculty and 891 retired faculty. All standing faculty and associated faculty (Practice Professors, Research Professors, etc.) are automatically members upon reaching age 55. Per its mission statement, PASEF "informs and advocates on matters of concern to senior and retired faculty through dialogue with the University administration and communication with its members and the larger community." PASEF shares important information relevant to senior and emeritus faculty with its members and engages with the University administration when matters of concern to the membership arise. PASEF members sit *ex-officio* on the Faculty Senate Executive Committee and four Faculty Senate standing committees. PASEF's principal activities also include many membership programs, panel discussions and lectures each semester both in person and by Zoom, with videos available for later viewing. PASEF also sponsors activities for its members such as book discussion groups. *See PASEF Declaration*, attached as Exhibit E.

The Proposed Intervenors respect and honor the EEOC's historical mission of rooting out antisemitism and discrimination of all forms. However, that mission does not here justify and is not advanced by the forcible, non-consensual disclosure of Penn employees' private personal information and the infringement of the Constitutional rights of the Proposed Intervenors and their members – the very people the EEOC purports to be protecting.

### III. ARGUMENT

The Proposed Intervenors seek to intervene in this action to protect their and their members' distinctive First Amendment rights and are clearly entitled to do so under Rule 24.

#### A. **The Proposed Intervenors Are Entitled to Intervene as a Matter of Right**

In the Third Circuit, a party is entitled to intervene as of right under Fed. R. Civ. P. 24(a)(2) upon establishing that:

(1) the application for intervention is timely; (2) the applicant has a sufficient interest in the litigation; (3) the interest may be affected or impaired, as a practical matter by the disposition of the action; and (4) the interest is not adequately represented by an existing party in the litigation.

*United States v. Territory of V.I.*, 748 F.3d 514, 519 (3d Cir. 2014) (cleaned up). Courts construe these factors consistent with a “policy preference which, as a matter of judicial economy, favors intervention over subsequent collateral attacks.” *Kleissler v. U.S. Forest Serv.*, 157 F.3d 964, 970 (3d Cir. 1998) (quotation marks and citations omitted). The Proposed Intervenors satisfy all four of these considerations. The Court must therefore permit their intervention as a matter of right. *See Territory of V.I.*, 748 F.3d at 519 (“Intervention as of right *must be granted* when a party” meets the test) (emphasis added); *see also Constand v. Castor*, No. 15-cv-5799, 2016 WL 5681454, at \*3 (E.D. Pa. Oct. 3, 2016) (noting that “Rule 24(a) contains mandatory language – the court ‘must permit’ intervention, so long as certain conditions are satisfied....”).

#### 1. **The Motion to Intervene is Timely**

The Motion is being filed before any substantive proceedings have occurred in this action and thus is timely. Whether intervention is timely requires consideration of: “(1)

the stage of the proceeding; (2) the prejudice that delay may cause the parties; and (3) the reason for the delay.” *Wallach v. Eaton Corp.*, 837 F.3d 356, 371 (3d Cir. 2016) (quotation marks and citations omitted). Ultimately, “[t]he timeliness of a motion to intervene is determined from all the circumstances” and in the court’s “sound discretion.” *Choike v. Slippery Rock Univ. of Pa. of State Sys. of Higher Educ.*, 297 F. App’x 138, 140 (3d Cir. 2008) (quotation marks and citations omitted).

This action remains in its infancy. The EEOC initiated this litigation on November 18, 2025, and the only court action has been entry of an order setting a deadline – January 20 – for filing responses to the AOSC. The Court has not scheduled – let alone conducted – an initial case-management conference, and it has not entered a case-management schedule or established any discovery or other deadlines. Requests to intervene at the preliminary stages, like this one, are timely for purposes of Rule 24. *See, e.g., Community Vocational Schs. of Pittsburgh, Inc. v. Mildon Bus Lines, Inc.*, No. 09-cv-1572, 2017 WL 1376298, at \*5 (W.D. Pa. Apr. 17, 2017) (motion to intervene timely where “discovery [was] not yet closed [and] no schedule for summary judgment motions or trial [was] set”). The Proposed Intervenors’ prompt intervention will not delay the timely advancement of the action or otherwise harm the parties. Where “few legally significant events have occurred,” courts have generally “not found prejudice.” *Id.* (cleaned up). And, given these circumstances, there is no delay that the Proposed Intervenors need to explain. Accordingly, the Motion is timely.

## **2. The Proposed Intervenors Have Substantial Interests in the Underlying Litigation**

The Proposed Intervenors and their members clearly have “sufficient” – *i.e.*, “significantly protectable” – interests in this action. Under Rule 24(a)(2), a protectable

interest is any “cognizable legal interest” that is more than a mere “interest of a general and indefinite character.” *Commw. of Pa., v. President United States of Am.*, 888 F.3d 52, 58 (3d Cir. 2018) (citation omitted). Where a proposed party has standing to bring a claim, it plainly has a sufficient interest to support intervention. *See United States v. Alcan Aluminum, Inc.*, 25 F.3d 1174, 1185 (3d Cir. 1994) (a party has a sufficient interest to intervene “where it is the real party in interest and where the applicant would have standing to raise the claim”); *Indian River Recovery Co. v. The China*, 108 F.R.D. 383, 387 (D. Del. 1985) (“It follows that, if an applicant for intervention would have had standing to bring the action originally, it has satisfied the interest requirement of Rule 24(a)(2).”). Organizations have standing to assert the rights of their members, and thus intervene on their behalf, where (1) individual members would otherwise have standing; (2) the interests at stake are germane to the organization’s purpose; and (3) neither the claim nor relief requires individual participation. *See Common Cause of Pa., v. Commw. of Pa.*, 558 F.3d 249, 261 (3d Cir. 2009) (citations omitted). Each of these elements is obviously present here.

1. The Proposed Intervenors’ individual members have standing because the Subpoena seeks their Constitutionally protected information – i.e., information protected by the First Amendment. Information about the identity of members in an organization or religious group is protected from compelled disclosure by the First Amendment because forced exposure chills freedom of association and the free exercise of religion. *Americans for Prosperity Found. v. Bonta*, 594 U.S. 595, 606 (2021) (“We have also noted that ‘[i]t is hardly a novel perception that compelled disclosure of affiliation with groups engaged in advocacy may constitute as effective a restraint on freedom of

association as [other] forms of governmental action.”) (quoting *NAACP v. Alabama ex rel. Patterson*, 357 U. S. 449 (1958)).

A third party “has standing to move to quash” a subpoena that seeks such privileged information concerning that party. *Greene v. Phila. Hous. Auth.*, 789 F. Supp. 2d 582, 586 (E.D. Pa. 2011); *see also In re Grand Jury Matter*, 770 F.2d 36, 38 (3d Cir. 1985) (“[A]n individual or entity claiming a property right or privilege in the subpoenaed documents has standing to contest the denial of a motion to quash the subpoena.”); *Wm. T. Thompson Co. v. Gen. Nutrition Corp.*, 671 F.2d 100, 103 (3d Cir. 1982) (“When a claim of property or privilege is made with respect to a third party subpoena our cases are clear that the party claiming the property right or privilege may appeal.”). Indeed, the government itself has used this procedure. *Pleasant Gardens Realty Corp. v. H. Kohnstamm & Co.*, No. CIV. 08-5582JHRJS, 2009 WL 2982632, at \*2 (D.N.J. Sep. 10, 2009) (allowing the United States, as a third party, to challenge “subpoenas directed to its former employees because [a party] is seeking to discover official information that belongs to the United States, some of which may be privileged or otherwise protected from discovery.”) (citation omitted). Because the Subpoena seeks their privileged information, the Proposed Intervenors and their members have standing to oppose the Subpoena.

2. The members’ interests that the Proposed Intervenors seek to protect by intervening are germane to their organizational purposes. The organizations serve a variety of purposes, but each requires the protection of the Constitutional freedoms of its members. *See supra* § II.B; Exhibits [A to E] hereto.

3. Participation of the Proposed Intervenors’ individual members is not necessary for the claim or relief asserted herein, and in fact would undermine them. The involvement of the organizations is sufficient to address the issues the Proposed

Intervenors plan to raise in this action. The Proposed Intervenors seek to protect the same interests of the members of each organization – nondisclosure of their protected associations and religious identification, and the privacy of their personal contact information. The individuals are protected if the group is protected. There is no separate or distinct interest of or harm to particular members of any of the organizations implicated in this action.

Indeed, requiring participation of individual members of the organizations would undermine precisely the interests the Proposed Intervenors seek to protect. *See NAACP v. Ala. ex rel. Patterson*, 357 U.S. 449, 459 (1958) (“To require that [the right to private association] be claimed by the members themselves would result in nullification of the right at the very moment of its assertion”). The entire purpose of this motion is to protect the privileged identifying information of those members. Requiring members to participate directly in this action would by itself reveal their identity and associations. This is precisely the result the Intervenors seek to avoid.<sup>2</sup>

Moreover, the Proposed Intervenors have standing to intervene directly on their own behalf because their future membership and ability to carry out their core activities are threatened by the chilling effects of enforcement of the Subpoena. *See Food & Drug Administration v. Alliance for Hippocratic Medicine*, 602 U.S. 367 (2024); *Havens Realty Corp. v. Coleman*, 455 U.S. 363 (1982). The prospect that the Subpoena or a similar future subpoena could be enforced will chill the interest of Jewish community

---

<sup>2</sup> The Court could protect those some of those interests by permitting the individuals to seek relief pseudonymously and sealing information bearing on the individuals’ identity. Cf. *Landau v. Corp. of Haverford Coll.*, No. 24-2044, 2024 WL 5108442 (E.D. Pa. Dec. 13, 2024); *Doe No. 1 v. Noem*, No. 25-1962, 2025 WL 1574916, at \*1 (E.D. Pa. May 20, 2025). Such a procedure is obviously unnecessary here.

members in joining and participating in these organizations for years to come, threatening the pursuit of the organizations' core objectives and, in turn, their very existence.

The Proposed Intervenors should be granted intervention to protect their members' Constitutional interests and the pursuit of their own core objectives.

**3. Disposition of this Case is Likely to Impair the Interests of the Proposed Intervenors**

The Proposed Intervenors satisfy the third prong of the intervention analysis because their interests "may be affected or impaired, as a practical matter by the disposition of the action." *Virgin Islands*, 748 F.3d at 519. They need not show that their interests "will" be impaired by disposition of the litigation; only that they "may" be. *See Brumfield v. Dodd*, 749 F.3d 339, 344 (5th Cir. 2014) (citing 6 Moore's Federal Practice § 24.03[3][a], at 24-41 (3d Ed. 2008)). Indeed, the "very purpose of intervention is to allow interested parties to air their views so that a court may consider them before making potentially adverse decisions." *Id.* at 345; *see also Brody ex rel. Sugzdnis v. Spang*, 957 F.2d 1108, 1122 (3d Cir. 1992). Here, a decision in favor of the EEOC would result in the very harms the Proposed Intervenors seek to avoid – the enforcement of the Subpoena and compelled disclosure of their membership rosters and sharing with the government of personal contact information and home addresses.

**4. The Interests of Existing Defendant Penn Diverges from Those of Proposed Intervenors**

The Proposed Intervenors also meet their "minimal" burden of demonstrating that the existing parties in the litigation may not protect their interests. *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972); *Hoots v. Commw. of Pa.*, 672 F.2d 1133, 1135 (3d Cir. 1982). "The possibility that the interests of the applicant and the parties

may diverge ‘need not be great,’” *Am. Farm Bureau Fed’n v. Envtl. Prot. Agency*, 278 F.R.D. 98, 110 (M.D. Pa. 2011) (citing *Utah Ass’n of Cty. v. Clinton*, 255 F.3d 1246, 1254 (10th Cir. 2001)), and a proposed intervenor need show only that “although [its] interests are similar to those of a party, they diverge sufficiently that the existing party cannot devote [them] proper attention[,]” *Virgin Islands*, 748 F.3d at 519-20.

Here, Penn has thus far resisted the Subpoena, but Penn’s interests and that of the Proposed Intervenors are not squarely aligned. Penn’s principal interest is in successfully defending against the charge of discrimination – not in protecting the rights of its faculty, staff and students. Penn does not share a direct, personalized interest in the particularized First Amendment and privacy rights of the Proposed Intervenors and their members.

Moreover, the University must consider multiple interests, separate and apart from the best interests of a subset of its employees. Penn may not adequately represent the interests of the Proposed Intervenors for reasons unrelated to this litigation. Penn answers to a variety of stakeholders and has its own interests in protecting itself as an institution in the face of an administration that already has exerted enormous pressure on the University. This Court can take judicial notice of the actions the current Administration has taken to pressure universities to make concessions on a range of subjects, including withholding billions of dollars in grant money universities depend on to fulfill their research functions. *See* Alan Blinder, *How Universities Are Responding to Trump*, NEW YORK TIMES (Dec. 1, 2025), <https://www.nytimes.com/article/trump-university-college.html>. In fact, the Administration’s suspension of \$175 million of grant funding has already led Penn to enter into an agreement with the Administration that to reverse its policies concerning the activities of transgender athletes. *See* Alan Wise, *Trump Administration suspends \$175 million in funding to University of Pennsylvania*

over trans athletes, NPR (March 20, 2025), <https://www.npr.org/2025/03/20/nx-s1-5333675/university-pennsylvania-Penn-trump-suspends-funding-trans-student-athletes>; Blinder, *How Universities Are Responding to Trump*. The Proposed Intervenors cannot leave their rights to chance and must be permitted to protect their rights directly by intervening in this action. This divergence of interests between the University's general need to balance various considerations, and the Proposed Intervenors' personal and particular interest in the privacy of their own identities and personal contact information, and protection of their own First Amendment rights, strongly supports granting a motion to intervene. *See, e.g., American Farm Bureau Fed'n*, 278 F.R.D. at 110-11 (public interest groups allowed to intervene in litigation in which EPA was a defendant, "[b]ecause the EPA represents the broad public interest ... not only the interests of the public interests groups" and similar stakeholders); *Kobach v. U.S. Election Assistance Comm'n*, No. 13-cv-4095, 2013 WL 6511874, at \*4 (D. Kan. Dec. 12, 2013) (applicants who had shown their interests in protecting voter rights, particularly in minority and underprivileged communities, may have private interests that diverge from the public interest of the defendant Election Assistance Commission); *see also, e.g., Meek v. Metro. Dade Cnty.*, 985 F.2d 1471, 1478 (11th Cir. 1993) ("The intervenors sought to advance their own interests in achieving the greatest possible participation in the political process. Dade County, on the other hand, was required to balance a range of interests likely to diverge from those of the intervenors."), *abrogated on other grounds by Dillard v. Chilton Cnty. Comm'n*, 495 F.3d 1324 (11th Cir. 2007).

The Proposed Intervenors meet each element of the test for intervention as of right. The Court must grant their Motion to intervene for that reason.

**B. In the Alternative, the Court Should Grant Permissive Intervention**

Even if the Court concludes that the Proposed Intervenors are not entitled to intervene as a matter of right, the Court should, at minimum, exercise its broad discretion to grant permissive intervention. A court may grant permissive intervention when the motion to intervene is “timely,” the proposed intervenors have “a claim or defense that shares with the main action a common question of law or fact,” and intervention will not “unduly delay or prejudice the adjudication of the original parties’ rights.” Fed. R. Civ. P. 24(b). The decision whether to grant permissive intervention is “highly discretionary.” *Brody ex rel. Sugzdnis v. Spang*, 957 F.2d 1108, 1115 (3d Cir. 1992). Permissive intervention is appropriate where, as here, the proposed intervenors may meaningfully contribute to the proper development of the factual or legal issues in dispute. *See, e.g.*, *American Farm Bureau Fed’n*, 278 F.R.D. at 111 (“In deciding whether to permit intervention under Rule 24(b), courts consider whether the proposed intervenors will add anything to the litigation.” (internal quotation marks and citation omitted)).

Here, the Proposed Intervenors will contribute to the Court’s resolution of key questions of law and fact in the main action. These questions include: whether federal law permits the EEOC to force Penn to give it the personal information it seeks, whether the EEOC’s motivations and potential uses of the subpoenaed information are permissible, and the degree to which the enforcement of the EEOC’s Subpoena would infringe and chill the exercise of First Amendment freedoms of the Proposed Intervenors’ members. Here, Penn has asserted the associational privacy rights of the Proposed Intervenors’ members as grounds to resist the Subpoena. *See, e.g.*, ECF 1-7 at 11. The Proposed Intervenors are uniquely situated to provide insight into that argument from those who would be most

directly affected by the Court’s decision, as they can speak on behalf of their members regarding the dangers posed by the release of their personal information.

Courts have granted intervention in nearly identical situations. For example, in *NLRB v. PNC Bank, N.A.*, the National Labor Relations Board sought to enforce an administrative subpoena it had served on a bank seeking the financial records of the putative intervenors. *NLRB v. PNC Bank, N.A.*, No. 3:21-MC-15(JAM), 2021 WL 6502553 (D.Conn. 2021). There, like here, the intervenors “claim[ed] an interest” in the action because the agency sought “to enforce a subpoena that would require [the Respondent] to produce” records related to the intervenors, “which the Intervenors assert are confidential.” *Id.* at \*6. The court found that “the Intervenors’ interest in the confidentiality of their financial records is sufficient to demonstrate that they have an interest in joining this action....” *Id.*

Finally, granting intervention at this early stage of the case would not delay or prejudice the adjudication of the original parties’ rights under Fed. R. Civ. P. 24(b)(3). *See, e.g., Donald J. Trump for President, Inc. v. Boockvar*, No. 2:20-cv-966, 2020 WL 14069341, at \*3 (W.D. Pa. Aug. 3, 2020), (“[I]ntervention at this time will not unduly delay or prejudice the adjudication of the rights of Plaintiffs, since the case has not progressed to a stage where intervention would be burdensome.”). But denying intervention would almost certainly deprive the Proposed Intervenors of the chance to defend their cognizable, significant, and protectable interests in this litigation.

Accordingly, if the Court determines that the Proposed Intervenors are not entitled to intervene as of right, the Court should exercise its discretion to allow them to intervene.

#### IV. CONCLUSION

For the foregoing reasons, the Proposed Intervenors respectfully request that this Court grant their Motion to Intervene and grant intervention as of right, or, in the alternative, via permissive intervention.

Respectfully submitted,

Dated: January 13, 2026

Harold Craig Becker  
Norman L. Eisen  
Democracy Defenders Fund  
600 Pennsylvania Ave., S.E., No. 15180  
Washington, D.C. 20003  
(202) 594-9958  
norm@democracydefenders.org  
craig@democracydefenders.org

Seth Kreimer  
3501 Sansom St.  
Philadelphia, PA 19104  
(215) 898-7447  
skreimer@law.upenn.edu

By: /s/ Matthew A Hamermesh

Mark A. Aronchick  
Matthew A Hamermesh  
Eitan G. Kagedan  
HANGLEY ARONCHICK SEGAL  
PUDLIN & SCHILLER  
One Logan Square, 27<sup>th</sup> Floor  
Philadelphia, PA 19103-6933  
(215) 568-6200  
maronchick@hangley.com  
mhamermesh@hangley.com  
ekagedan@hangley.com

Witold J. Walczak  
Stephen Loney  
Ariel Shapell  
AMERICAN CIVIL LIBERTIES UNION  
OF PENNSYLVANIA  
P.O. Box 60173  
Philadelphia, PA 19102  
(215) 592-1513  
vwalczak@aclupa.org  
sloney@aclupa.org  
ashapell@acluepa.org

Amanda Shanor  
3730 Walnut Street  
Philadelphia, PA 19104  
203-247-2195  
shanor@upenn.edu

*Counsel for the Proposed Intervenors*

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

U.S. EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION,  
Petitioner,

v.

THE TRUSTEES OF THE UNIVERSITY  
OF PENNSYLVANIA,  
Respondent.

Case No. 2:25-cv-06502 (GJP)

**[PROPOSED] ORDER**

**AND NOW**, this \_\_\_\_\_ day of \_\_\_\_\_, 2026, upon consideration of the Motion to Intervene filed by the American Academy of Jewish Research, the Jewish Law Students Association of the University of Pennsylvania Carey Law School, the National and University of Pennsylvania chapters of the American Association of University Professors, and the Penn Association of Senior and Emeritus Faculty (the “Proposed Intervenors”), and any response thereto and argument thereon, it is hereby **ORDERED** that the Motion to Intervene is **GRANTED**. *See Fed. R. Civ. P. 24.* The **CLERK OF COURT** shall **ADD** the Proposed Intervenors to the docket as Intervenor-Defendants.

BY THE COURT:

Gerald J. Pappert, J.

# **EXHIBIT A**

**UNREDACTED VERSIONS PROPOSED TO BE FILED  
UNDER SEAL**

**DECLARATION ON BEHALF OF AMERICAN ACADEMY OF JEWISH RESEARCH ("AAJR")**

I, [REDACTED] DECLARE as follows:

1. I serve as the current [REDACTED] of the American Academy of Jewish Research ("AAJR").
2. Founded in 1920, the AAJR is the oldest organization of Jewish studies scholars in North America. Fellows are nominated and elected by their peers and thus represent many of the most distinguished senior scholars teaching Jewish studies at American universities. AAJR's primary mission is to further scholarly research and writing on Jewish studies and to enhance the professional opportunities and development of scholars in the field. AAJR's programming includes convening sessions on topics of current scholarly interest at annual Jewish studies conferences; workshops and fellowships for junior scholars; online collections of scholarly papers; and awards of grants and prizes. Throughout its history, AAJR has undertaken humanitarian work on behalf of individual Jewish scholars who face danger and hardship due to war and oppression around the world, including assisting Jewish scholars fleeing Europe in the 1930s and 1940s and, most recently, Jewish studies scholar in Ukraine.
3. The AAJR has grave concerns about the November 18, 2025, legal action filed by the U.S. Equal Employment Opportunity Commission ("EEOC") against the University of Pennsylvania and its impact on AAJR members, especially but not only those who teach and work at Penn. *U.S. Equal Employment Opportunity Commission v. Trustees of the University of Pennsylvania*, 2:25-cv-06502 (E.D.Pa.).
4. The AAJR has fellows (akin to members) who work at the University of Pennsylvania ("Penn") that would be impacted directly if Penn were forced to disclose information requested in EEOC's current subpoena.
  - a. AAJR fellows are faculty and leaders in Penn's Jewish Studies Program.
  - b. An AAJR fellow also leads the Katz Center for Advanced Judaic Studies, a program that sponsors research by American scholars, often from other institutions, who are paid by Penn and thus considered Penn employees under the terms of the subpoena.

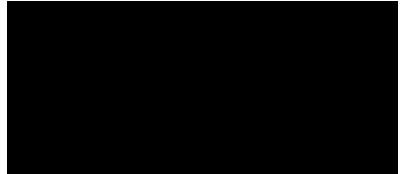
- c. An AAJR led the Listening Sessions held in March 2024 as part of the University of Pennsylvania Task Force on Antisemitism (TFAS).
  - d. AAJR has members who received the “University of Pennsylvania Task Force on Antisemitism’s online Qualtrics Survey....”
- 5. AAJR’s executive committee, officers and fellows oppose Penn disclosing their names and personal contact information to the EEOC or any other government agency without their consent. Our members also do not want to be forced to compromise their privacy by intervening individually in this litigation.
- 6. AAJR strongly objects to the government singling out Jewish affiliates and Jewish Studies scholars for the forced, nonconsensual disclosure of sensitive personal information.
- 7. AAJR, which includes many scholars who study the history and present-day manifestations of antisemitism, supports efforts to combat antisemitism and other forms of discrimination on university campuses and beyond. AAJR believes, however, that concerns about antisemitism and other forms of discrimination militate against, rather than in favor of, acceding to the EEOC’s request that the University collect and compile names and personal contact information of Jewish studies scholars and other employees with connections to Jewish life. AAJR believes that targeting individuals in this way endangers the privacy, safety, and freedoms of Jews and those who pursue Jewish studies or participate in Jewish-affiliated organizations.
- 8. As scholars who study Jewish history, including the history of antisemitism and other forms of hate, AAJR is particularly concerned about compiling and sharing without consent individual and personal information of faculty, staff, and students based on race, ethnicity, religion, or other characteristics that have been the basis for exclusion, discrimination, and persecution in the past and present.
- 9. AAJR is concerned that if the EEOC or other government agencies can force universities to disclose personal information without individuals’ consent, students and scholars may be discouraged and intimidated from studying topics related to Jewish studies, affiliating with Jewish studies programs, or participating in Jewish-identified academic, cultural, and religious organizations.

10. AAJR believes that Penn's compliance with the subpoena or with similar demands would endanger employees' privacy and safety; chill free speech, academic freedom, religious liberty and freedom of association; and violate employees' constitutional rights to privacy, associational freedom, speech, and religious liberty.
11. AAJR members whose personal contact information would be disclosed if Penn were to comply with the subpoena have a protected interest in privacy, associational freedom, speech, and religious liberty that is personal to each of them. These potential harms from non-consensual disclosure of identity and private personal information are separate and distinct from Penn's interests.
12. AAJR's interest in this litigation also extends beyond members at Penn whose information would be disclosed to the government pursuant to the subpoena. If the EEOC can compel Penn to collect and disclose the type of information requested in this subpoena, other universities and employers may be forced or pressured to do the same. Such an outcome not only would threaten the privacy and other constitutional rights of AAJR members at other universities, but of all American scholars and students, especially those affiliated with or potentially interested in Jewish studies or related fields and disciplines.
13. Since AAJR members' interests are threatened by the EEOC subpoena, they should have a voice in the resolution of this litigation to ensure that third parties do not compromise their rights. While Penn thus far has refused to comply with the subpoena, the University's interests and calculus may change under pressure from the government, which has tremendous financial leverage in the form of federal research funding.
14. The AAJR therefore wishes to intervene to defend the interests of the employees whose privacy and other constitutional rights would be compromised by disclosure of the requested information, and, in so doing, to safeguard AAJR's broader mission: to support and promote the academic discipline of Jewish studies by ensuring that those who wish to study, research, and learn about these topics are not subjected to infringements of their privacy and other constitutional rights.

15. I have requested that our attorneys submit this declaration with my identity under seal because I am concerned about the potential harm to my privacy and safety of having my name and personal information disclosed to the government and potentially to other entities.

16. Additionally, I want to protect my employer from any retaliation or other ill-consequences at the hands of the government or other entities due to my declaration.

I, [REDACTED] hereby DECLARE under penalty of perjury on this 13th day of January, 2026, that the foregoing statements are true and correct to the best of my information, knowledge and belief, and that I am authorized to so represent by AAJR's governing body.



# **EXHIBIT B**

**UNREDACTED VERSIONS PROPOSED TO BE FILED  
UNDER SEAL**

JLSA Declaration  
1/11/26**Declaration on behalf of Penn Carey Jewish Law Students Association**

We, [REDACTED] DECLARE as follows:

1. We are [REDACTED] at the University of Pennsylvania Carey Law School (“Penn Carey Law”).
2. We are [REDACTED] representatives of the Jewish Law Students Association (“JLSA”) at Penn Carey Law.
3. JLSA is a cultural, social, and non-denominational affinity group at Penn Carey Law that works to represent Jewish students and welcome students of all backgrounds and affiliations. JLSA’s mission is to build a vibrant community within Penn Carey Law by providing programming of Jewish cultural, religious, social, charitable, legal, and educational significance. The organization hosts Friday night dinners, social events, lunch and learn sessions, distinguished speakers, and other programs. JLSA seeks to develop an awareness within the campus community of legal issues relevant to the Jewish community and the role of Jewish ethics and values in the professional world. By offering engaging and meaningful programming and by connecting students with other Jewish organizations and alumni, JLSA hopes to contribute to the wellbeing of Jewish students at the Law School, the broader Penn community, and the Philadelphia Jewish community in which the group operates.
4. JLSA has serious reservations about the potential impact of a recent legal action filed on November 18, 2025, by the U.S. Equal Employment Opportunity Commission (“EEOC”) against the University of Pennsylvania. *U.S. Equal Employment Opportunity Commission v. The Trustees of the University of Pennsylvania*, 2:25-cv-06502 (E.D.Pa.).
5. EEOC’s subpoena requested that Penn “[p]roduce a list of all clubs, groups, organizations and recreation groups (hereinafter referred to as “organizations”) related to the Jewish religion, faith, ancestry/National Origin.” JLSA most certainly meets that definition.
6. The subpoena requested a “roster of organization members who are employees of Respondent,” and the personal contact information of both the organizations’ Point of Contact and all organization members identified as university employees. The subpoena

JLSA Declaration  
1/11/26

expressly encompasses "...other employees (including, but not limited to, students employed by the University)." (Parenthetical in original). Alarmingly, the subpoena went so far as to request student-employees' mailing addresses, in addition to other personal contact information.

7. Because we and many other JLSA members are or have been employed by the university, including as teaching assistants and research assistants, EEOC's request for information about Jewish employees and those associated with Jewish organizations would impact us and many other JLSA members directly.
8. JLSA and its members oppose Penn disclosing any information about them to the EEOC or any other government agency without their individual and voluntary consent. We object both to the wholesale disclosure of rosters of student-employees affiliated with JLSA and other Jewish organizations, and to the individual-level disclosure of contact information, including mailing addresses, phone numbers, and email addresses.
9. JLSA appreciates that EEOC takes past acts of campus antisemitism seriously and that it seeks to prevent future incidents. As a Jewish affinity group, JLSA and its members are deeply concerned about, and have struggled with, antisemitism, both generally and at Penn specifically.
10. JLSA does not object to the EEOC investigating antisemitism on campus. Rather, JLSA objects and thus seeks to intervene because of concerns about *how* the EEOC would conduct its antisemitism investigation.
11. JLSA strongly objects to EEOC (or any government agency) non-consensually obtaining personal information about individual Jewish affiliates of the university, and it likewise objects to any government agency compiling lists of Jewish community members. JLSA is concerned that non-consensual disclosure of information about Jewish student-employees to the EEOC will compromise Jewish safety, even if the EEOC's intention is to accomplish the laudable goal of combating antisemitism, which JLSA shares.
12. As members of the Jewish community, JLSA and its members appreciate the grave history of turning over lists of Jews to the government. Two generations removed from

JLSA Declaration  
1/11/26

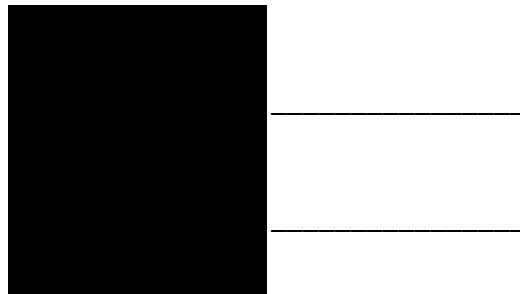
the Holocaust, our community understands such disclosures are deeply frightening and profoundly dangerous. We ourselves are both descendants of Holocaust survivors. Earlier this month, for example, one of us spoke about the EEOC's subpoena with a family member who is a Holocaust survivor, and he expressed the concern that cataloguing Jews was something the Nazis did in the 20<sup>th</sup> Century in the lead up to the concentration camps.

13. The EEOC should investigate workplace antisemitism in a way that makes the Jewish community feel safe, rather than threatened. As an alternative to the EEOC subpoena, JLSA proposes having Penn distribute an EEOC complaint form to all members of the campus community so that every Jewish affiliate has the opportunity to voluntarily cooperate with the EEOC's investigation.
14. JLSA and its members do not want to be forced to intervene individually in this litigation. The time, expense, and potential exposure of members' identity and personal information are all obstacles to JLSA members intervening individually. If forced to intervene individually, the EEOC could potentially obtain much of the information it sought to obtain via subpoena, which would undermine the goal of intervening.
15. JLSA seeks intervention because even though Respondent University of Pennsylvania has thus far resisted disclosure of the subpoenaed student-employee information, the University's interests and calculus may change under pressure from the federal government, which has enormous leverage in the form of federal funding for research. Since it is Jewish student-employees whose information is sought by the EEOC, those of us with a direct interest in maintaining our privacy and affiliations need to have a voice in the final resolution of this matter.
16. Failure to permit JLSA's intervention could irreparably compromise our legal and constitutional rights to privacy, association, expression, and religious liberty. If people believe that membership in Jewish organizations could get them on a list turned over to a government agency, we fear people would be less likely to participate in Jewish community activities on campus.

JLSA Declaration  
1/11/26

17. We have requested that our attorneys submit this declaration with our identities under seal because we are afraid of the safety implications of having our names and contact information turned over to any party—never mind an entity as powerful as the government—merely because we are Jewish, especially given the rise in antisemitism in recent years and the tragic history of similar lists. We are also concerned because our personal information would be turned over to the government in the context of an adversarial court proceeding, which we fear could expose us to unfavorable repercussions—whether professional or otherwise.

We [REDACTED] hereby DECLARE under penalty of perjury on this 11th day of January, 2026, that the foregoing statements are true and correct to the best of our information, knowledge and belief, and that we are authorized to so represent by JLSA's governing body.



# EXHIBIT C

**DECLARATION OF VEENA DUBAL**  
General Counsel, AAUP

I, Veena Dubal, DECLARE as follows:

1. I am employed by the University of California, Irvine as Professor of Law.
2. I also serve as General Counsel to the American Association of University Professors (AAUP).
3. AAUP is a nonprofit membership association and labor union of faculty, graduate students, and other academic professionals with chapters at colleges and universities throughout the country, including at the University of Pennsylvania. The AAUP's mission is to protect its members in relation to all aspects of their relationship to their employers and federal, state and local governments to advance academic freedom and shared governance to define fundamental professional values and standards for higher education to promote the economic security of faculty, academic professionals, graduate students, postdoctoral fellows, and all those engaged in teaching and research in higher education to help the higher education community organize to accomplish their goals and to ensure higher education's contribution to the common good. Founded in 1915, the AAUP has helped to shape American higher education by developing the standards and procedures that maintain quality in education and academic freedom in the country's colleges and universities. The AAUP is headquartered in Washington, D.C.
4. The AAUP has closely monitored the actions of the Trump Administration and its express intention to pressure universities to adopt viewpoints and policies favored by the Administration and cease activities disfavored by the Administration. Those efforts have included the weaponization of federal civil rights law to suppress speech and dissent on

campuses. The leadership and membership of the AAUP consider the Administration's actions a grave threat to academic freedom.

### **Harms to AAUP Members**

5. The AAUP has approximately 44,000 members on college and university campuses across the country, including approximately 200 members at the University of Pennsylvania (the Penn-AAUP members).
  - i. Many of these members, including members at Penn, are of Jewish faith, and belong to clubs, groups, and organizations related to Jewish religion, faith, ancestry, and national origin that are the subject of this subpoena. Subpoena request, No. 2.
  - ii. AAUP and Penn-AAUP also have members who are faculty and leaders in Jewish Studies. Subpoena request No. 3.
6. In September 2025, the AAUP's Committee A on Academic Freedom and Tenure issued a Report titled, On Title VI, Discrimination, and Academic Freedom, that stated, there is no doubt that the Trump administration has wielded Title VI with the goals of discrediting institutions of higher education, undermining academic freedom and institutional autonomy, and unmooring the Civil Rights Act from its foundational commitments to addressing structures of discrimination that prevent or limit educational access. *Id.* at 1. The Report continues, federal antidiscrimination law has become the site of a gross overreach of executive power as the language of Title VI is being used to force students and faculty members, colleges and universities, to repress views and practices that the Trump administration does not favor. *Id.* at 10.

- i. The Report specifically cited the University of Pennsylvania's deal with the Administration to negotiate the restoration of its federal funding. This deal included measures that could not have been ordered by a court as remedies for a Title VI violation. *Id.* at 9. The Report specifically recommended that faculties, administrations, and governing boards . . . refuse to comply with unlawful federal government demands based on Title VI investigations that impinge on institutional autonomy, faculty academic freedom (including the faculty's role in governance), student academic freedom, and freedom of expression of faculty members, students, and staff. *Id.* at 10.
7. Penn-AAUP's members do not wish to have their identities and associations disclosed to the EEOC by the University, nor do they want to be forced to intervene individually in this litigation because of the time, expense, and risk of exposure.
8. While the AAUP strongly supports efforts to combat antisemitism, it believes these efforts can and must not interfere with the safety, privacy, and academic freedom of its members. The AAUP is concerned that the Trump Administration is using enforcement of anti-discrimination laws and others selectively, and in pursuit of ends unrelated to the purposes of those laws.
9. AAUP members and other university employees have the right to associational privacy, particularly when that association is an integral element of their free exercise of religion. The AAUP believes that the information sought in the subpoena is far outside the scope of anti-discrimination law, and constitutes a grave threat to associational privacy.
10. I am aware of and can identify Penn-AAUP members who will suffer harm to their privacy, associational freedom, religious liberty, and the ability to pursue their careers

without threat of ideological conformity, should the University disclose their private personal information to the EEOC.

11. I am aware of and can identify Penn-AAUP members whose speech and academic freedom will be chilled should the University disclose their private personal information to the EEOC.
12. I am also aware of and can identify AAUP members at other colleges and universities who are similarly concerned about their universities disclosing their identities and associations to the Trump Administration, who feel constrained in their speech and activities in and outside of the classroom in fear of targeting by the Administration.

### **Harms to AAUP as an Organization**

13. Amid the Trump Administration's multi-pronged attack on universities and academic freedom, the AAUP is concerned that enforcement of the subpoena will empower the Administration to further coerce universities into ideological compliance and thus threaten the rights of AAUP members and other university employees nationwide.
14. Given the Trump Administration's efforts to seize data held by one agency for specific, authorized purposes in violation of federal privacy laws, the AAUP is further concerned that the EEOC will voluntarily share or be forced to share private data acquired pursuant to this subpoena with other agencies of the federal government.
15. Enforcement of the subpoena in this case might threaten the confidentiality of the AAUP's own membership lists and its members' right to associational privacy with respect to their membership in the AAUP.
16. The AAUP has zealously sought to protect the confidentiality of its membership lists, as well as of its communications with members against governmental inquiries.

17. Since the Administration took office, the AAUP has regularly defended the rights and liberties of its members to speak and associate freely without ideological censorship.

- a. In *AAUP v. Rubio*, the District Court of Massachusetts held that the Trump Administration could not deport non-citizen members in relation to their protected pro-Palestinian speech and expression. *AAUP v. Rubio*, No. 1:25-cv-1068, 2025 U.S. LEIS 193069 (D. Mass. Sept. 30, 2025).
  - . In another recent lawsuit, the AAUP challenged the Trump Administration's cancellation of nearly 600 million in federal research grants to UCLA and its demand that UCLA adopt the administration's positions on DEI, gender identity, and campus protests a move that the court recognized as a grave threat to academic freedom and free speech. Accordingly, the court ordered a preliminary injunction that reinstated funding to the UC system and barred the Trump administration from restricting, withholding, or otherwise conditioning funds on compliance with its ideological agenda. *AAUP v. Trump*, No. 25-cv-07864-RFL (N.D. Cal. Nov. 14, 2025).

18. On April 2, 2025, for example, I sent a letter to college and university general counsels urging them not to comply with demands by the Office of Civil Rights within the Department of Education for lists similar to those at issue here. The letter stated, demands to higher education institutions to provide the names and nationalities of students and faculty are not justified by federal agencies' enforcement responsibilities under Title VI. They also, and independently, violate the First Amendment by unlawfully targeting students and faculty because of the content of their speech and by chilling their rights to freedom of speech and association.

19. For these reasons, the AAUP sees to intervene in this action filed on November 18, 2025, by the U.S. Equal Employment Opportunity Commission ( EEOC ) against the University of Pennsylvania, in order to protect the rights of its members, particularly those of the Jewish faith and those who belong to Jewish-affiliated professional and other groups at Penn, but more broadly its members who associate with any religion, advocacy organization, labor union, or other lawful association.

I, Veena Dulal, hereby DECLARE under penalty of perjury on this \_\_\_\_\_ day of January, 2026, that the foregoing statements are true and correct to the best of my information, knowledge and belief, and that I am authorized to so represent the AAUP's governing body.



Veena Dulal

# EXHIBIT D

**DECLARATION OF LORENA GRUNDY, Vice-President, AAUP-Penn**

I, Lorena Grundy, DECLARE as follows:

1. I am employed by the University of Pennsylvania (“Penn”) as a member of the faculty, to wit, as a Practice Assistant Professor in Chemical and Biomolecular Engineering.
2. I also serve as Vice-President of the Penn Chapter of the American Association of University Professors (“AAUP-Penn”).
3. The AAUP is a nationwide organization that since 1915 has advocated for university professors’ academic freedom and shared governance. AAUP works to center meaningful faculty and staff participation in university decision-making processes and aims to build worker solidarity across campuses in the United States. It represents academic employees of universities and colleges in labor disputes, contributes research and policy on crucial issues in higher education, and fights for the economic security of the profession through direct advocacy and the creation of chapters.
4. AAUP-Penn is a Chapter of the national AAUP. It is a membership organization that advocates for the interests of Penn faculty in all aspects of their relationship with the University and for a just university that meets its obligations to the city and the community. The organization welcomes members from all departments and all schools at Penn. This includes all those employed primarily in research and/or teaching at a professional level regardless of title, including standing faculty, contingent faculty, graduate researchers and instructors, postdocs, and librarians, archivists, curators, and technicians whose work involves or substantially contributes to research or teaching. AAUP-Penn’s goals include promoting academic freedom and meaningfully shared university governance; improving working conditions; and building solidarity among university workers across ranks and job categories at Penn and across institutions.
5. AAUP-Penn has significant concerns about how a federal legal action filed on November 18, 2025, by the U.S. Equal Employment Opportunity Commission (“EEOC”) against the University of Pennsylvania, will impact its members, especially those of the Jewish faith and those who belong to Jewish-affiliated professional and other groups at Penn. *U.S. Equal Employment Opportunity Commission v. The Trustees of the University of Pennsylvania*, 2:25-cv-06502 (E.D.Pa.).

6. On November 19, 2025, AAUP-Penn's executive committee publicly issued a statement supporting the Penn administration's "actions to protect the privacy and safety of Jewish faculty, students, staff, and all members of the Penn community by reportedly declining to create and share lists of names and personal information of Jewish employees with the federal government." The full statement is available at <https://aaup-penn.org/statement-of-the-aaup-penn-executive-committee-on-the-eeoc-investigation-of-penn/>.
7. AAUP-Penn has members who would be impacted directly if Penn were forced to disclose information requested in EEOC's current subpoena.
  - a. AAUP-Penn's members are active in campus affairs, and the organization likely has members whose privacy would be compromised by the disclosure of complaints about "discrimination based on Jewish religion, faith, ancestry/National Origin and/or complaints of antisemitism from November 1, 2022, to the present," Subpoena request No. 1.
  - b. AAUP-Penn has members who are Penn employees and belong to "clubs, groups, organizations and recreation groups (hereinafter referred to as 'organizations') related to the Jewish religion, faith, ancestry/National Origin." Subpoena request No. 2 (parenthetical in original).
  - c. AAUP-Penn has members who are faculty and leaders in the Jewish Studies Program. Subpoena request No. 3.
  - d. AAUP-Penn has members who are "staff and faculty members who participated in the Listening Sessions held in March 2024 as part of the University of Pennsylvania Task Force on Antisemitism (TFAS)." Subpoena Request 4.
  - e. AAUP-Penn has members who both participated in and led the aforementioned March 2024 Listening Sessions. Session leaders assured participants that the discussions would be kept confidential. Disclosure of participants' identity and any notes describing the discussions would violate the assurances of confidentiality, significantly compromising the trust that is essential to the integrity of such important and delicate information-exchange sessions. Subpoena request No. 5.
  - f. AAUP-Penn has members who received the "University of Pennsylvania Task Force on Antisemitism's online Qualtrics Survey...." Subpoena request No. 6.

8. AAUP-Penn's members do not wish to have their identities and associations disclosed to the EEOC by the University, nor do they want to be forced to intervene individually in this litigation because of the time, expense, and risk of exposing themselves.
9. AAUP-Penn also has been forced to divert limited organizational resources to conducting research on the effects of the EEOC's request on members, fielding and responding to concerns from members about their privacy, advising members encompassed by the information requests, conducting informational meetings, communicating with affected organizations, and communicating with the Penn administration to protect the rights of members.
10. AAUP-Penn strongly supports combatting antisemitism and all forms of discrimination but believes that such efforts can and must be accomplished without sacrificing the safety, privacy, and academic freedom of any member of the Penn community. AAUP-Penn opposes any forcible and non-consensual disclosure of AAUP-Penn members' – and other non-member faculty, staff and employed students' – identity or private personal information to the EEOC because it is likely to endanger employees' privacy and safety; chill free speech, academic freedom, religious liberty and freedom of association; and violate employees' constitutional rights to privacy, associational freedom, speech, and religious liberty.
11. AAUP-Penn members have a protected interest in privacy, associational freedom, speech, and religious liberty that is personal to each of them. These potential harms from non-consensual disclosure of identity and private personal information are separate and distinct from Penn's interests. Employees are the real parties in interest in this litigation since it is their private personal information that is sought by the federal government. Non-consensual disclosure of AAUP-Penn members' private personal information to the federal government will impair their rights, and is likely to do so irreparably.
12. History demonstrates that transmitting the names and other personal information of Jews to governments can be highly dangerous. The Nazis set out to compile a total registry of Jews that included assimilated Jews who did not practice the religion and even "half-Jews," Christians who happened to have two Jewish grandparents. To develop such a registry, the Nazis relied in part on information provided by churches, teachers, librarians and genealogists working in cooperation with government ministries. Librarians, for

example, examined dissertations and other academic sources for information that was passed to the government and used to identify scholars as Jews subject to elimination. *See* Götz Aly, and Karl Heinz Roth, *The Nazi Census: Identification and Control in the Third Reich* (2004).

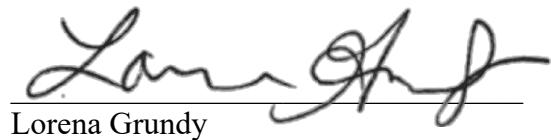
13. While this kind of danger may seem inconceivable in the United States, there too, information gathered by the Federal government has been used to the detriment of Jews. During the 1930s, a federal agency known as the Home Owners' Loan Corporation surveyed and rated different urban neighborhoods according to how hazardous they were perceived to be, and the association's assessments were based in part on information gleaned about the racial and ethnic identity of an area's residents. The government's assessment of neighborhoods inhabited by African American, Jews and other immigrant groups became known to lenders whose subsequent discriminatory denial of loans to such areas stymied homeownership and investment in Black neighborhoods and pushed Jews from urban centers. Government efforts to identify Jews within a larger population need not be motivated by an intent to cause harm.
14. Given the inherent insecurity of data and rising antisemitism, the creation and disclosure of a list of Penn's Jewish and Jewish-affiliated employees risks these employees' present and future safety and security. Regardless of the EEOC's intent, that risk is heightened by the government's history of data mismanagement and security breaches. *See, e.g.*, Inspector General, U.S. Department of Defense, *Evaluation of the Secretary of Defense's Reported Use of Commercially Available Messaging Application for Official Business*, Rpt. No. DODIG-2026-021 (Dec. 2, 2025), [https://media.defense.gov/2025/Dec/04/2003834916/-1-1/1/DODIG\\_2026\\_021.PDF](https://media.defense.gov/2025/Dec/04/2003834916/-1-1/1/DODIG_2026_021.PDF); *Protected Whistleblower Disclosure of Charles Borges Regarding Violation of Laws, Rules & Regulations, Abuse of Authority, Gross Mismanagement, and Substantial and Specific Threat to Public Health and Safety at the Social Security Administration* (Aug. 26, 2025), <https://whistleblower.org/wp-content/uploads/2025/08/08-26-2025-Borges-Disclosure-Sanitized.pdf>. Cf. E.O. 14243, 90 Fed. Reg. 13681 (March 20, 2025) (ordering the "intra- and inter-agency sharing and consolidation" of data). Unlike AAUP-Penn, the University is reportedly dependent on the federal government for over \$1 billion of financial support and is subject to a wide

variety of other forms of federal regulation and oversight that together create a risk that Penn might compromise the interests of AAUP-Penn members for reasons having nothing to do with the merits of this dispute. *See University of Pennsylvania, Fiscal Year 2026 Operating Budget 20-21* (June 12, 2025).

15. Penn has already yielded to pressure from the federal government by changing its policy on transgender athletes. *See, e.g., Penn to ban trans women from women's sports, ends case focused on Lia Thomas*, Associated Press (July 1, 2025), [https://www.espn.com/college-sports/story/\\_/id/45634254/penn-ban-trans-athletes-ending-lia-thomas-civil-rights-case](https://www.espn.com/college-sports/story/_/id/45634254/penn-ban-trans-athletes-ending-lia-thomas-civil-rights-case). In 2024, the University disclosed information about its faculty under pressure from a Congressional investigation. *See Middle East Studies Ass'n, Letter to the University of Pennsylvania denouncing its collaboration with the House Committee on Education and the Workforce's investigation of faculty members* (Aug. 26, 2024), <https://mesana.org/advocacy/committee-on-academic-freedom/2024/08/26/letter-to-the-university-of-pennsylvania-denouncing-its-collaboration-with-the-house-committee-on-education-and-the-workforces-investigation-of-faculty-members>. Thus, it is possible that Penn will again yield to federal government pressure in this litigation.
16. Since AAUP-Penn members' interests are threatened directly by the EEOC subpoena, they should have a voice in the resolution of this litigation to ensure that third parties do not compromise their rights.
17. In conclusion, AAUP-Penn opposes non-consensual disclosure by Penn to the EEOC or any other government agency of the following private personal information of its members:
  - a. the identities and personal information of complainants who made confidential reports of antisemitism;
  - b. membership lists and member contact information (including personal phone number, email address, and mailing address) of “all clubs, groups, organizations and recreation groups related to the Jewish religion, faith, ancestry/National Origin”;
  - c. a list of employees in the Jewish Studies Program and their contact information;

- d. a list of staff and faculty members (including personal phone number, email address, and mailing address) who participated in the Listening Sessions held in March 2024 as part of the University of Pennsylvania Task Force on Antisemitism (TFAS);
- e. Notes taken at the March 2024 Listening Sessions, where participants were assured confidentiality and anonymity; and
- f. “a list of all faculty and staff members who received the University of Pennsylvania Task Force on Antisemitism’s online Qualtrics survey” and their contact information (again including personal phone number, email address, and mailing address).

**I, Lorena Grundy, hereby DECLARE under penalty of perjury on this 6th day of January 2026, that the foregoing statements are true and correct to the best of my information, knowledge and belief, and that I am authorized to so represent by AAUP-Penn’s governing body.**



Lorena Grundy

# EXHIBIT E

**DECLARATION OF ON BEHALF OF  
PENN ASSOCIATION OF SENIOR AND EMERITUS FACULTY (PASEF)**

I, Mitchell Philip Marcus, DECLARE as follows:

1. I am an emeritus faculty member at the University of Pennsylvania with the title of Professor Emeritus, and also hold the position of Director within the Provost's Office.
2. I also serve as President of PASEF, the Penn Association of Senior and Emeritus Faculty.
3. PASEF is a membership organization of and for senior (age 55+), emeritus and retired faculty from all schools at Penn. PASEF encompasses both standing faculty and associated faculty. Standing faculty include tenure track and tenured faculty, as well as members of the health schools with the title of clinical educator. Associated faculty are non-tenured academic staff with certain specialized roles, including Practice Professors, Research Professors and members of the health schools with the title of Academic Clinician. Many of our emeritus and retired members continue to teach and pursue active research within the University itself, and stay involved within the University. PASEF's membership is large and largely Philadelphia-based. As of July 2025, PASEF had 2,245 members, including 1,354 senior faculty and 891 retired faculty. All standing faculty and Associated faculty (Practice Professors, Research Professors, etc.) are automatically members upon reaching age 55.
4. Per its mission statement, PASEF "informs and advocates on matters of concern to senior and retired faculty through dialogue with the University administration and communication with its members and the larger community." PASEF shares important information relevant to senior and emeritus faculty with its members and engages with the University administration when matters of concern to the membership arise. PASEF members sit *ex-officio* on the Faculty Senate Executive Committee and four Faculty Senate standing committees. PASEF's principal activities also include many membership programs, panel discussions and lectures each semester both in person and by Zoom, with videos available for later viewing. We also sponsor activities for our members such as book discussion groups.
5. The EEOC subpoena directly affects PASEF members.

- a. At least five PASEF members are associated with the Jewish Studies Program.
  - b. Other PASEF members belong to “clubs, groups, organizations and recreation groups (hereinafter referred to as ‘organizations’) related to the Jewish religion, faith, ancestry/National Origin,” which are included in the EEOC subpoena.
  - c. PASEF members participated in and even led the Listening sessions for which EEOC’s subpoena seeks attendance information and notes of discussions, which were held under assurance of confidentiality.
  - d. PASEF members were on the University of Pennsylvania’s Task Force on Antisemitism, which requested the Listening Sessions.
  - e. PASEF members received the Qualtrics Survey.
  - f. PASEF members visited Israel and were pictured in the group photograph posted by *penn.against.the.occupation*, about which EEOC’s subpoena seeks identifying and pedigree information.
6. PASEF has significant concerns about how the federal legal action filed on November 18, 2025, by the U.S. Equal Employment Opportunity Commission (“EEOC”) against the University of Pennsylvania, will impact its members. *See U.S. Equal Employment Opportunity Commission v. The Trustees of the University of Pennsylvania*, 2:25-cv-06502 (E.D.Pa.). While an obvious concern relates to members of the Jewish faith and those who belong to Jewish-affiliated professional and other groups at Penn, the subpoena impacts a much broader group of PASEF members, since many if not most received both the Task Force on Anti-Semitism’s online survey and an invitation to the Listening Sessions and are thus encompassed by the personal information request. And since the subpoena seeks information dating back to 2022, some of the newly-emeritus and retired members will also be implicated.
7. PASEF’s members do not wish to have their identities and associations and their personal contact information disclosed to the EEOC by the University. The ability of the Federal government to demand personally identifying information about arbitrary subgroups of our members, including those who have participated in particular events or talks with certain content or who have received information about such events,

would have a chilling effect on our membership's participation in such events. For those of our members who were born in the years immediately following the Holocaust, the thought of having their names turned over to the government is already a cause of mental anguish [weaker: serious stress]; this is also true of those of some of our members who decades ago fled authoritarian governments in fear of their lives. Thus, PASEF members, including Emeritus faculty, will be discouraged from their continuing association with Penn and PASEF if they are not free to pursue their interests, ideas, research, and teaching activities free from unexpected monitoring, interference or forced participation in matters that do not contribute to their teaching or scholarly activities.

8. PASEF seeks intervention to avoid the need for individual members to bear the time and cost in opposing the subpoena, and to minimize the chances that their identities, and leadership of this effort, will become public or known to the federal government.
9. PASEF members have a protected interest in privacy, associational freedom, speech, and religious liberty that is personal to each of them. These potential harms from non-consensual disclosure of identity and private personal information are separate and distinct from Penn's interests. Employees and newly-retired and emeritus faculty are the real parties in interest in this litigation since it is their private personal information that is sought by the federal government. Non-consensual disclosure of PASEF members' private personal information to the federal government will impair their rights, and is likely to do so irreparably.
10. The current federal government has not been a reliable protector of data privacy and security. Modern history has numerous examples of the dangers associated with governmental collection of lists of Jews, especially but not exclusively by the Nazis. There remain troubling contemporary expressions of antisemitism in this country, making the EEOC's broad data requests chilling for PASEF members whose information is being sought.

11. Since PASEF members' interests are threatened directly by the EEOC subpoena, they seek to have a say in the resolution of this litigation to ensure the protection of their legal and constitutional rights.

**I, Mitchell Philip Marcus, hereby DECLARE under penalty of perjury on this 12th day of January, 2026, that the foregoing statements are true and correct to the best of my information, knowledge and belief, and that I am authorized to so represent by PASEF's governing body.**



A handwritten signature in black ink, appearing to read "Mitchell P. Marcus", is centered on a horizontal line. The signature is fluid and cursive, with a distinct 'M' at the beginning.