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9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION

12 JACOB MANDEL, *et al.*,

13 Plaintiffs,

14 vs.

15 BOARD OF TRUSTEES OF THE  
16 CALIFORNIA STATE UNIVERSITY, *et al.*,

17 Defendant(s).

18 CASE NO. 3-17-CV-03511-WHO

19 [PROPOSED] BRIEF OF AMICUS CURIAE

20 OPEN HILLEL

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## INTRODUCTION

Open Hillel is a Jewish organization representing students from campuses across the country, including San Francisco State University (SFSU), who object to Hillel International’s policies of excluding Jewish students who dissent from a singular ideological view in support of Israeli policy. These Hillel International policies apply to all affiliates, including both the regional San Francisco Hillel and the SFSU campus chapter. Open Hillel writes to inform the Court that, unfortunately, Hillel does not represent or welcomes all Jewish students, regardless of ideology. This is evident from Hillel’s stated policies and its record of exclusion.

Open Hillel advocates for changes to Hillel’s policies to ensure that Hillel would truly include and represent all Jewish students, regardless of their views or questions about Israel. But plaintiffs’ statement that “Hillel is the only Jewish organization that represents all Jews on campus as Jews, regardless of political ideology, gender, and national origin, or any other characteristic” is false.

Plaintiffs’ theory of discrimination relies on the notion that any action against Hillel is tantamount to targeting Jewish students, because, according to plaintiffs’ false assertion, “Hillel is an organization serving the entire campus Jewish community.” This brief explains why Hillel does not represent “all Jewish students” and why actions against Hillel are not necessarily aimed at Jewish students for their religious or ethnic identity. Simply pleading that Hillel was excluded from tabling at the Know Your Rights Fair – without alleged facts showing anti-Jewish bias – is therefore insufficient to claim that the exclusion of Hillel constituted discrimination.

## CREDENTIALS OF AMICUS CURIAE

Open Hillel is an organization of Jewish students and recent graduates, supported in our work by rabbis, professors and Jewish community members.<sup>1</sup> It represents students on dozens of campuses across the country, as well as the 114 academics and 89 rabbis on its advisory

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<sup>1</sup> Open Hillel, *Mission and Vision*, available at <http://www.openhillel.org/about/>.  
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1 councils. Open Hillel advocates for pluralism, inclusivity and open discourse in the Jewish  
2 community on campus and beyond. Open Hillel aims to eliminate Hillel International's  
3 Standards of Partnership for Israeli Activities ("Standards of Partnership" or "Standards"),<sup>2</sup>  
4 which exclude individuals and groups from the Jewish community on campus on the basis of  
5 their views regarding Israel. The staff and board members of Open Hillel closely follow the  
6 actions and policies of Hillel International as they work to assist students around the country who  
7 wish to challenge Hillel's exclusionary policies.

## 8 9 **ARGUMENT**

### 10 **A. Hillel International's Standards of Partnership for Israel Activities** 11 **exclude Jewish students who dissent from a narrow pro-Israel ideology.**

12 In 2010, Hillel International adopted its Standards of Partnership, which state that "Hillel  
13 will not partner with, house, or host organizations, groups, or speakers that as a matter of policy  
14 or practice:

- 15 • Deny the right of Israel to exist as a Jewish and democratic state with secure and  
16 recognized borders;
- 17 • Delegitimize, demonize, or apply a double standard to Israel;
- 18 • Support boycott of, divestment from, or sanctions against the State of Israel
- 19 • Exhibit a pattern of disruptive behavior towards campus events or guest speakers or  
20 foster an atmosphere of incivility."

21 The Standards of Partnership serve as a litmus test for participation in Jewish student life under  
22 Hillel's auspices, silencing and excluding Jewish students who question Israeli policy, as  
23 described below. Hillel International posts the Standards of Partnership on Hillel International's  
24 website, and as outlined in the section below, enforces these policies upon local and campus  
25 Hillel affiliates. As Hillel President and CEO Eric Fingerhut has made clear, "Hillel International

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27 <sup>2</sup> Hillel International, *Hillel Israel Guidelines, Standards of Partnership*, available at  
28 <http://www.hillel.org/jewish/hillel-israel/hillel-israel-guidelines>.

1 expects all campus organizations that use the Hillel name to adhere to these guidelines [which  
2 include the Standards]. No organization that uses the Hillel name may choose to do otherwise."<sup>3</sup>

3 In addition to the explicit directive from Hillel International, these Standards may be  
4 included in the constitutions and bylaws of local Hillel chapters.<sup>4</sup> Jewish student leaders at Hillel  
5 campus affiliates have reported to Open Hillel that they are required to agree to observe the  
6 Standards in order to accept internships or conduct programming.<sup>5</sup>

7 The Standards of Partnership bar Jewish students from expressing a wide variety of  
8 viewpoints. For example, Hillel will not tolerate support for boycotts of Israeli goods produced  
9 in West Bank settlements or declaring as illegal Israel's policies and actions in the occupied  
10 Palestinian territories.

11 While many Jewish campus groups join Hillel as affiliates, Hillel bars Jewish student  
12 groups that will not abide by the Standards' political requirements.<sup>6</sup> This bar prevents certain  
13 Jewish student groups from affiliating with or joining the Hillel community. It applies to Jewish  
14 Voice for Peace (JVP)<sup>7</sup> student chapters and others. Following the Standards, campus Hillels  
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16 <sup>3</sup> Hillel News, *Hillel President Responds to Swarthmore College Hillel Resolution*, Hillel  
17 International (Dec. 10, 2013), available at <http://www.hillel.org/about/news-views/news-views---blog/news-and-views/2013/12/10/hillel-president-responds-to-swarthmore-college-hillel-resolution>.

18 <sup>4</sup> See, e.g., Boston University Hillel, *Constitution of the Hillel Student Organization* (Nov. 16,  
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20 <sup>5</sup> See, e.g., University of Texas (UT) Austin Hillel, *Program Guidelines and Application*,  
21 available at <http://texashillel.org/jewish-student-life/student-resources/>. UT Austin Hillel  
22 conditions the use of Hillel's resources (facilities, program guidance, leadership development,  
23 advertising and other student services) on adherence to the Standards of Partnership on Israel.

24 <sup>6</sup> See, e.g., Ariel Wittenberg, *JVP Rejected from Hillel Umbrella Organization*, The Brandeis  
25 Hoot (March 11, 2011), available at <http://www.thebrandeishoot.com/articles/9864>; Connor  
26 Grubaugh, *Jewish Student Union Denies Membership to J Street U*, Daily Californian (October  
27 9, 2013), available at <http://www.dailycal.org/2013/10/08/jewish-student-union-votes-deny-membership-j-street-u/> (Campus Hillel affiliate at University of California, Berkeley, rejected J  
28 Street U as a member group, citing bylaws that prohibit a member organization from hosting  
speakers who demonize Israel).

<sup>7</sup> JVP is national membership organization that opposes anti-Jewish, anti-Muslim, and anti-Arab  
bigotry and oppression. JVP seeks an end to Israeli violence and occupation of Palestine, and a  
just solution for Palestinians. JVP also supports boycott and divestment campaigns. It has been  
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1 have barred student-initiated programming that includes criticism of the Israeli government's  
2 policies in the West Bank, Gaza and East Jerusalem.<sup>8</sup> Campus Hillels have also barred Jewish  
3 students from holding joint programming with Palestinian student organizations.<sup>9</sup>

4 Jewish students interested in exploring viewpoints critical of Israel as part of their Jewish  
5 identity may be permitted to enter Hillel buildings, but they are not able to access the full  
6 benefits of Hillel membership, such as forming student groups that can affiliate with Hillel or  
7 organizing events that express their views, and they cannot call Hillel the home for their Jewish  
8 life.

9  
10 **B. Hillel enforces its exclusionary Standards of Partnership policy through**  
11 **threats of legal action and expulsion.**

12 Hillel International regularly threatens and punishes Jewish students who deviate from  
13 the Standards of Partnership. For instance, in March 2017, Hillel expelled the Jewish LGBTQ  
14 student group B'nai Keshet at Ohio State University (OSU) for co-sponsoring a fundraiser for  
15 local refugees with JVP-OSU. Hillel claimed that B'nai Keshet violated the Standards because  
16 JVP-OSU's views are contrary to the Standards' third clause related to Israel. In expelling B'nai  
17 Keshet, Hillel fired the president of the student group from a paid internship position with Hillel  
18 and revoked all material support for the group, including subsidized kosher food for meetings.

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22 reported that the San Francisco Bay Area chapter of JVP was present tabling at the Know Your  
23 Rights Fair from which SF Hillel was allegedly excluded.

24 <sup>8</sup> See, e.g., JTA, *Princeton Hillel Refuses to Host Breaking the Silence Exhibit*, The Times of  
25 Israel (May 1, 2017), available at [https://www.timesofisrael.com/princeton-hillel-refuses-to-host-](https://www.timesofisrael.com/princeton-hillel-refuses-to-host-breaking-the-silence-exhibit/)  
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27 *the Silence Exhibit*, STL Jewish Light (May 4, 2017), available at  
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<sup>9</sup> See, e.g., Michelle Denise Ferreol, *Hillel Cancels Event Reservation*, Harvard Crimson (Nov.  
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[event/](https://www.thecrimson.com/article/2012/11/8/hillel-israeli-palestinian-event/).

1 Hillel also prevented the group from holding B'nai Keshet events and meetings within Hillel and  
2 posting on Hillel's email listserv.<sup>10</sup>

3 Hillel International has also threatened to sue local Hillel affiliates that have voted to  
4 reject the Standards of Partnership and have implemented policies that welcome Jewish students  
5 of all backgrounds and perspectives in Hillel. For instance, in 2015 at Swarthmore Hillel, after  
6 the elected student board had voted to stop adhering to the Standards, it invited a team of 1960s  
7 civil rights activists to speak on campus. The speakers held views that the Standards prohibit. In  
8 response, Hillel International's lawyer sent a letter to the associate dean at Swarthmore College,  
9 threatening legal action.<sup>11</sup> Hillel similarly threatened Guilford Hillel in 2015, where, as at  
10 Swarthmore, student leaders voted to abandon the exclusionary Standards and planned  
11 programming that did not comply with Hillel's rules.<sup>12</sup>

12 Per Hillel International policy and President Fingerhut's directive,<sup>13</sup> SF Hillel and SFSU  
13 Hillel are similarly bound by the Standards of Partnership. As far as the student body at SFSU  
14 and the general public are aware, SF Hillel and the SFSU affiliate are committed to the Standards  
15 of Partnership because they have made no public objection. Although there is dissent among  
16 Jewish students at SFSU and nationwide, only four Hillel affiliates are known to have formally  
17 voted to reject the Standards (Swarthmore, Guilford, Wesleyan and Vassar).<sup>14</sup> Certainly, the  
18 average student at SFSU would have no knowledge of it if SF Hillel had made a private  
19 objection to the Standards of Partnership.  
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22 <sup>10</sup> Judy Maltz, *Hillel Ousts Jewish LGBTQ Group for Teaming Up with Pro-boycott*  
23 *Organization*, Haaretz (March 20, 2017), available at [https://www.haaretz.com/us-](https://www.haaretz.com/us-news/.premium-hillel-ousts-lgbtq-group-for-teaming-up-with-pro-boycott-organization-1.5451302)  
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26 <sup>11</sup> Batya Ungar-Sargon, *How the Israel Lobby Captured Hillel*, Foreign Policy (Nov. 23, 2015),  
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<sup>12</sup> *Ibid.*

<sup>13</sup> *See*, Hillel President Responds to Swarthmore, *supra*, note 3.

<sup>14</sup> *Ibid.*

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2 **C. Hillel has rejected Jewish students' efforts to be inclusive.**

3 In 2012, Open Hillel first launched with a petition signed by over 1,500 Jewish students  
4 calling on Hillel to revoke the Standards of Partnership on the grounds that they are exclusionary  
5 and contrary to Hillel's stated claim to be the home for all Jewish students regardless of political  
6 ideology.<sup>15</sup> Since then, Open Hillel student leaders have met repeatedly with Hillel International  
7 leadership and have organized numerous petitions and letter-writing campaigns, calling on Hillel  
8 to abandon the Standards of Partnership.<sup>16</sup> Yet Hillel has consistently refused to do so.

9 Indeed, in December 2013, Hillel International CEO Eric Fingerhut wrote, "Let me be  
10 very clear – 'anti-Zionists' will not be permitted to speak using the Hillel name or under the  
11 Hillel roof, under any circumstances."<sup>17</sup> In November 2014, Fingerhut said that he enforces the  
12 Standards of Partnership "rigorously," and he further promised to "personally investigate every  
13 situation" in which Jewish students violated them.<sup>18</sup> Hillel has not changed its position since  
14 then, and Eric Fingerhut remains the president and CEO of Hillel.

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19 <sup>15</sup> Melody Guan, *Students Object to Hillel Policies*, Harvard Crimson, (Feb. 7, 2013), available at  
20 <https://www.thecrimson.com/article/2013/2/7/students-protest-hillel-palestine/>.

21 <sup>16</sup> See, e.g., Open Hillel, *Readmit B'nai Keshet and drop the Standards of Partnership*, (2017),  
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24 <sup>17</sup> Hillel News, *Hillel President Responds to Swarthmore College Hillel Resolution*, Hillel  
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26 <sup>18</sup> Sam Sokol, *US Jewish Students' Difficulties Draw Notice of Knesset Panel*, Jerusalem Post  
27 (Nov. 24, 2014), available at [https://www.jpost.com/Diaspora/US-Jewish-students-difficulties-  
draw-notice-of-Knesset-panel-382745](https://www.jpost.com/Diaspora/US-Jewish-students-difficulties-draw-notice-of-Knesset-panel-382745).

**D. Hillel frequently acts as a political organization and not as an umbrella organization for all Jewish students.**

Hillel functions as a political advocacy organization to promote a certain ideological view on Israel. For example, Hillel has endorsed President Trump's controversial nominee, Kenneth Marcus, to lead the Department of Education's Office for Civil Rights because of Marcus' record combating criticism of Israel on college campuses.<sup>19</sup> Despite numerous petitions and open letters from Jewish students calling on Hillel to revoke its endorsement of Marcus, Hillel maintained its position.<sup>20</sup>

Hillel campus affiliates across the country dedicate resources to defeating student-led political campaigns to divest from companies involved in human rights violations in Israel-Palestine.<sup>21</sup> For example, in 2014, Hillel at the University of California, Los Angeles, funneled \$1,000 from private donors to pro-Israel student government candidates to defeat student leaders who supported boycott and divestment campaigns.<sup>22</sup> In another example, Hillel President and

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<sup>19</sup> Josh Nathan-Kazis, *Hillel Stumbles Onto Campus Sex Controversy By Endorsing Trump Nominee*, The Forward, (February 11, 2018), available at <https://forward.com/news/394066/hillel-stumbles-onto-campus-sex-controversy-by-endorsing-trump-nominee/https://forward.com/news/394066/hillel-stumbles-onto-campus-sex-controversy-by-endorsing-trump-nominee/>.

<sup>20</sup> See, e.g., Abby Patkin, *Students call on Hillel for action*, The Justice (Feb. 13, 2018), available at <http://www.thejustice.org/article/2018/02/petition-marcus-hillel>; Elena Quinones, *Students write open letter, petition Hillel International to rescind endorsement of Trump nominee*, Student Life (Feb. 19, 2018), available at <http://www.studlife.com/news/2018/02/19/students-write-open-letter-petition-hillel-international-to-rescind-endorsement-of-trump-nominee/>; Open Hillel, *Hillel: Stand with students and survivors: Withdraw Your Endorsement of Kenneth Marcus*, (Feb. 5, 2018), available at <http://www.openhillel.org/statement-on-kenneth-marcus-nomination/>.

<sup>21</sup> Eric Fingerhut, *Hillel Is Taking on BDS's Circus of Hate*, Hillel.org (January 16, 2015), available at <http://www.hillel.org/about/news-views/news-views---blog/news-and-views/2015/01/16/hillel-is-taking-on-bds-s-circus-of-hate>.

<sup>22</sup> Yardain Amron, *Why Did UCLA Hillel Funnel Cash From Pro-Israel Donor to Student Candidate?*, The Forward, (July 23, 2014), available at <https://forward.com/news/israel/202616/why-did-ucla-hillel-funnel-cash-from-pro-israel-do/https://forward.com/news/israel/202616/why-did-ucla-hillel-funnel-cash-from-pro-israel-do/>.

1 CEO Eric Fingerhut lobbied political representatives to adopt legislation to prohibit government  
2 contracts with entities that support civil rights boycotts of Israel.<sup>23</sup>

3 In August 2017, Hillel International merged with the David Project, an organization  
4 whose mission is to strengthen the “pro-Israel community on college campuses.”<sup>24</sup> Open Hillel  
5 objected to this decision, joined by hundreds of students and community members who sent  
6 letters, signed petitions and wrote op-eds calling on Hillel to remain independent from the David  
7 Project.<sup>25</sup> Nevertheless, Hillel maintained its merger.

8 These are just a few examples of Hillel’s emphasis on political advocacy in support of a  
9 singular ideological view that does not represent the perspectives of many Jewish students on  
10 campus.<sup>26</sup>

## 11 CONCLUSION

12 Hillel International does not represent Jewish students of all political ideologies.  
13 According to its own Standards of Partnership, Hillel explicitly excludes Jewish student groups  
14 with particular views on Israel-Palestine. Hillel has enforced its exclusionary rules against  
15 affiliates through expulsion and threats of legal action when affiliates violate the exclusionary  
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18 <sup>23</sup> See, e.g., Eric Fingerhut, *Testimony in Support of Amended House Bill 476* (Dec. 7, 2016),  
19 available at

20 [http://siteassets.pagecloud.com/ohiojc/downloads/Eric\\_Fingerhut\\_Hillel\\_HB476\\_WrittenTestimony-ID-e6d54003-5e20-42b7-d234-4a867f0104a8.pdf](http://siteassets.pagecloud.com/ohiojc/downloads/Eric_Fingerhut_Hillel_HB476_WrittenTestimony-ID-e6d54003-5e20-42b7-d234-4a867f0104a8.pdf).

21 <sup>24</sup> Hillel News, *The David Project Joining Hillel International*, Hillel International (Aug. 23,  
22 2017), available at <http://www.hillel.org/about/news-views/news-views---blog/news-and-views/2017/08/23/the-david-project-joining-hillel-international>.

23 <sup>25</sup> See, e.g., Open Hillel, *Tell Hillel: Cut Ties with the David Project*, available at  
24 <https://actionnetwork.org/letters/tell-hillel-cut-ties-with-the-david-project>; IfNotNow, *Tell Hillel: Drop the David Project*, available at <https://actionnetwork.org/petitions/hillel-drop-the-david-project>;  
25 Nancy Ko, *Hillel International Must Reject the David Project in Favor of Inclusive Community*, Jewish Currents (August 29, 2017), available at  
26 <https://jewishcurrents.org/uncategorized/hillel-international-must-reject-the-david-project-in-favor-of-inclusive-community/>.

27 <sup>26</sup> In fact, young American Jews are increasingly critical of Israeli policy and thus are  
28 increasingly likely to dissent from Hillel’s political positions. See, e.g., Dov Waxman, *Young American Jews and Israel: Beyond Birthright and BDS*, 22 *Israel Studies* 177, (2017), available at <http://dovwaxman.com/files/YoungAm.pdf>.

1 rules. Hillel has explicitly rejected Jewish students' organized efforts to change Hillel's policies  
2 so that it could truly become the home for all Jewish students regardless of political ideology.  
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4 Dated: May 25, 2018

5 SIEGEL, YEE & BRUNNER

6 By /s/ Dan Siegel

7 Dan Siegel

8 Attorneys for Amicus Curiae

9 OPEN HILLEL  
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