

# *Danger in* DIVESTMENT

**The Boycott, Divestment, Sanctions Movement:  
What College Trustees Need to Know**



**AMERICAN COUNCIL OF TRUSTEES AND ALUMNI  
Institute for Effective Governance®**



## AMERICAN COUNCIL OF TRUSTEES AND ALUMNI

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## **The Boycott, Divestment, Sanctions Movement: What College Trustees Need to Know**

### **□ Executive Summary**

Colleges and universities face renewed danger in the coming academic year. There is no doubt that the demonstrators will be back, louder and more determined. They will be better organized, well-funded, and will certainly have legal counsel and media by their side. More campuses will likely be affected. Sadly, the protesters will again show little respect for the time and generosity that the trustees devote to their institutions, or the wisdom and insight that they bring to higher education governance. Although this time their demands focus on Israel, if a precedent of capitulation to divestment pressure succeeds now, schools can be assured that they will be subject to similar tactics for other sociopolitical causes.

One of the chief demands of the current demonstrators will be that the institution divest whatever holdings it has in Israel and in companies that do business with Israel. Another will be to sever academic and cultural ties with Israeli academic institutions. The pressure to divest and boycott has been a principal part of the agenda of the Boycott, Divestment, Sanctions movement, known widely by its acronym, BDS. The movement was promulgated 20 years ago by a group of Palestinian organizations, some with unsavory ties to terrorist activity and overt antisemitism.



The spring semester of 2024 was marked by the aggressive demands of the anti-Israel demonstrators and unruly behavior, with obstruction of the campus caused by the encampments and sometimes outright vandalism. There were instances of harassment of Jewish students and threats of violence which sometimes turned into actual violence.<sup>1</sup> Although the campus occupations were months in the planning, with “how-to” guides circulating among student groups that explained everything from resisting police and hiding one’s identity to breaking into campus buildings,<sup>2</sup> senior administrators were largely taken by surprise. It is arguable that those demanding “negotiations” with their schools over divestment and boycott measures have used the process as a delaying tactic to avoid consequences for their unlawful activities. What is worse, some institutions made concessions to the demonstrators in return for their agreement not to disrupt commencement and to remove their tents.<sup>3</sup>

Resisting highly aggressive campus protests is not easy, and it demands of campus leadership courage, determination, and adherence to principle. Administrators will depend on the board of trustees for its firm, public support. This is a time when a dedicated board and dedicated alumni are essential to the future of their institutions.

**This brief guide will explain why an educational institution should adopt a position of strict institutional neutrality, as an increasing number of schools have done, following the wisdom of the University of Chicago in its Kalven Report. Institutional neutrality empowers colleges and universities to pursue their true mission of teaching and research, rather than serving as a largely ineffective and marginal political platform. Such a policy protects and fosters the freedom of**

expression and freedom of thought that are the lifeblood of liberal education. And it allows the institution to invest its funds subject only to the financial professionals whose duty it is to look after the strength of its portfolio. As fiduciaries of the institution, moreover, trustees who make decisions about the portfolio on grounds other than best financial practice could even be held personally liable for breach of fiduciary responsibility.

All boards will do well to consider the guidance of the California Public Employees' Retirement System: "Divesting appears to almost invariably harm investment performance, such as by causing transaction costs (e.g., the cost of selling assets and reinvesting the proceeds) and compromising investment strategies."<sup>4</sup>

The Boycott, Divestment, Sanctions movement is an entirely appropriate topic for debate and discussion in relevant history and political science classes, along with such matters as the two-state solution, Zionism, and the history of the Middle East. But divestment from and boycott of Israel is not even remotely a topic that should come before the governing board of a college or university.

## □ Recommendations for Trustees

- Protect your institution's political neutrality. Review with board colleagues the Kalven Report on the importance of institutional neutrality.
- For the health of the endowment, the political climate on campus, and the flourishing of the university community, asserting institutional neutrality now and rejecting efforts to divest from Israel make good sense for university trustees.

- Reject calls for formal board consideration of divestment from Israel or to satisfy any other political agenda. Recognize that divestment is a threat to the university’s mission and to its financial health.
- Trustees of public and private institutions of higher learning should be aware of all legislative developments regarding boycotts.

## □ What is BDS?

BDS is a loosely organized movement steered by nearly 30 Palestinian organizations that advocate for the end of the Jewish state in Israel, to be replaced by Palestinian majority rule. In the words of its cofounder Omar Barghouti: “A Jewish state in Palestine in any shape or form cannot but contravene the basic rights of the indigenous Palestinian population and perpetuate a system of racial discrimination that ought to be opposed categorically.”<sup>5</sup>

The rapid growth of social media has made organizing far easier in recent years—connecting leaders across the nation and engaging and radicalizing students and college campuses where such work had previously been a challenge. Today, groups and supporters at disparate schools share ideas, propaganda, various protest and mobilizing techniques, and information widely and quickly, and the movement grows and threatens everywhere.

The network these BDS organizations have established keep student groups and seemingly local, grassroots organizations unified behind the primary goal and operating principles of reversing goodwill toward the State of Israel. The goal of isolating and delegitimizing

Israel is most clearly evident in the BDS pursuit of academic boycotts, a goal that is even in the name of its forerunner, formed 20 years ago, the Palestinian Campaign for the Academic and Cultural Boycott of Israel (PACBI). According to its website:

PACBI urges academics, academic associations/unions, and academic—as well as other—institutions around the world, where possible and as relevant, to boycott and/or work toward the cancellation or annulment of events, activities, agreements, or projects involving Israeli academic institutions or that otherwise promote the normalization of Israel in the global academy . . . International faculty should not accept to write recommendations for students hoping to pursue studies in Israel.<sup>6</sup>

Most recently, methods have widened to boycotts of not only Israeli industries, but also American firms that Palestinian groups deem to help Israel, including, over the years, Raytheon (now RTX), Caterpillar, Starbucks, McDonald's, Puma, and even Disney—for featuring the Israeli superhero Sabra in a forthcoming Marvel film. It has campaigned on many college campuses to end endowment investments in Israel and, as explained below, academic and cultural relations with Israeli scholars and universities.<sup>7</sup>

What is of primary interest to the pro-Palestine groups that demonstrate for BDS is undercutting the moral legitimacy of Israel, that is, a political goal and that within an even larger opposition to the West. Mr. Barghouti articulated in 2011, “BDS will unavoidably contribute to the global social movement’s challenge to neoliberal Western hegemony and the tyrannical rule of multi/transnational corporations.”<sup>8</sup>



## □ What are the organizations behind BDS?

More than 170 organizations were signatories in 2005 to the BDS call to action, and others have since joined the campaign.<sup>9</sup> This is not a purely student-driven, student-run movement—it is a professionally organized, widely backed movement with diverse supporters including Palestinian professional and labor groups. Some of its constituent groups and supporters have faced sanctions for breaking campus rules, and some have connections to listed terrorist groups. According to Jonathan Schanzer, senior vice president for research at the Foundation for Defense of Democracies and a noted terrorism analyst and expert on Middle Eastern affairs, leaders of more than one terrorist organization prosecuted by the U.S. Department of State have re-emerged in the BDS movement.<sup>10</sup> While no institution of higher education should seek to silence the opinions of members of the academic community, trustees and administrators should be on guard against campus organizations that have a history of disruption, violence, and harassment that could constitute a violation of federal civil rights legislation.

The most visible BDS-aligned organization on campus is National Students for Justice in Palestine (National SJP).<sup>11</sup> An Anti-Defamation League report of October 19, 2023, observed:

Some SJP chapters issued pro-Hamas messaging and/or promoted violent anti-Israel propaganda social media accounts. The University of Illinois SJP chapter shared a video which shows what appears to be a Hamas terrorist filming himself from inside the home of an Israeli family during the attack. At least three chapters referred readers to Resistance News Network (RNN)—part of an encrypted



messaging application that shares violent images and videos of attacks on Israelis and disseminates Hamas propaganda—since the Hamas attack, and five others routinely shared RNN content even before October 7, 2023.<sup>12</sup>

It is hardly reassuring that at its 2014 annual conference, American Muslims for Palestine (AMP), National SJP’s parent organization, invited participants to “navigate the fine line between legal activism and material support for terrorism.”<sup>13</sup>

## □ **Why Colleges and Universities Should Reject Demands for Divestment from Israel**

### **1. BDS is antisemitic.**

The call to end the world’s only Jewish state is plausibly viewed as antisemitic. Singling out Israel as the only nation worthy of boycott and sanction, moreover, is antisemitic, according to the definition used by the U.S. government. As the State Department explains, manifestations of antisemitism include “applying double standards by requiring of [Israel] a behavior not expected or demanded of any other democratic nation” and “multilateral organizations focusing on Israel only for peace or human rights investigations.”<sup>14</sup>


Already in 2002, then Harvard University president Lawrence Summers warned, “Serious and thoughtful people are advocating and taking actions that are anti-Semitic in their effect if not their intent.” The examples he gave of such actions include virulent criticism of Israel for alleged human rights abuses while ignoring the egregious abuses of China, Rwanda, and Arab nations, fundraising for groups with ties to terrorism,

and singling out Israel for divestment.<sup>15</sup> Although Mr. Barghouti and the Palestinian BDS National Committee deny antisemitism, the call to end the world's only Jewish state is plausibly seen as an antisemitic position. Moreover, the actions of National Students for Justice in Palestine, the strongest and most active campus organization behind BDS, have not infrequently been overtly antisemitic. At Rutgers University, National SJP chapter members spattered fake blood on their clothes while holding up a sign reading, "this is what the Jews did to us."<sup>16</sup> At Stony Brook University in 2018, the National SJP chapter campaigned to expel the Jewish student group Hillel.<sup>17</sup> Dr. Schanzer reported in his 2016 testimony to Congress that a photo from the headquarters of AMP featured an Arabic-language poster that includes the phrase, "No Jew will live among them in Jerusalem."<sup>18</sup> Such incidents of antisemitic harassment are not rare, and some cross the line into actual violence against Jews.<sup>19</sup>

Students from such elite campuses as Harvard University, Columbia University, and Cornell University have testified before Congress about the BDS-inspired antisemitism they faced.<sup>20</sup> This, along with numerous accounts now shared widely in the press and on social media, and scores of Title VI complaints submitted to the Department of Education, provide incontrovertible evidence of the depths and magnitude that antisemitism and harassment of Jewish students have reached on campuses nationwide.

## **2. Academic boycott of Israel is illegitimate and violates academic ethics.**

The BDS demand of severing academic connections with Israel reveals much about the negotiating position and goals of the organizations, National SJP and others, behind BDS.



When the American Studies Association voted to boycott all Israeli educational institutions, former Israeli ambassador to the United States Ron Dermer stated, “Rather than standing up for academic freedom and human rights by boycotting countries where professors are imprisoned for their views, the A.S.A. chooses as its first ever boycott to boycott Israel, the sole democracy in the Middle East, in which academics are free to say what they want, write what they want and research what they want.”<sup>21</sup> The Association of Public and Land-grant Universities concluded: “This boycott wrongly limits the ability of American and Israeli academic institutions and their faculty members to exchange ideas on critical projects that advance humanity, develop new technologies, and improve health and well-being across the globe.”<sup>22</sup>

It is a particular violation of academic ethics to refuse a letter of recommendation to a deserving student, yet this is explicitly what PACBI, the parent organization behind BDS, enjoins. Self-respecting colleges and universities do not tolerate such behavior, as is evident in the matter of John Cheney-Lippold of the University of Michigan, who, citing PACBI boycott guidelines, reneged on his agreement to write a letter of reference for a student when he discovered the student intended to study in Israel. The university disciplined the professor and issued a public statement decrying actions of this nature.<sup>23</sup>

According to the 2024 Academic Freedom Index of the Friedrich-Alexander-Universität Erlangen-Nürnberg, Israel ranks in the top 20–30% of 179 nations and territories worldwide—ahead of both the United Kingdom and the United States, which fall in the top 30–40%. Palestine/Gaza ranks in the bottom 30–40%, and Saudi Arabia, Syria, Turkey, China, Egypt, and the

United Arab Emirates fall in the bottom 10%.<sup>24</sup> Yet we hear few, if any, calls for academic boycott or divestment from these nations.

To date, the Nobel Prize has been awarded to 13 Israelis for breakthroughs in chemistry, economics, peace, and literature; that is more than the citizens of India, China, or Spain. The injury that would follow an academic boycott would not only be a disadvantage to Israel's universities and institutes, but also to our own and to the world. It is ironic that Mr. Barghouti, his virulent hatred for the State of Israel notwithstanding, obtained his master's degree from Tel Aviv University and is pursuing a doctoral degree there as well.

A large faculty group, United Against the Academic Boycott of Israel, recently published an open letter stating that "An academic boycott against Israel is selective, unfair, and counterproductive . . . In our view, like any government, the current Israeli government can be criticized and held accountable for many transgressions. But why the relentless and exclusive focus on Israel? . . . Only the world's single Jewish-majority state is targeted for this kind of delegitimization."<sup>25</sup> Even for many of those who have been strongly critical of some of Israel's policies and leaders, the call for an academic boycott is anathema. Former president of the American Association of University Professors Cary Nelson wrote, "Jews are not going to give up their aspirations for sovereignty any more than Palestinians are. Thus, the push for academic boycotts only hardens the extremists on both sides, and moves us further away from peace. What is lacking is the capacity of each side to exhibit any empathy for the other; the binary approach that BDS embodies is harmful at once for peace and for academic freedom."<sup>26</sup>


### 3. State and national legislative initiatives reject BDS.

The negative reaction of lawmakers to the BDS agenda has been strong. State legislatures have recognized the discriminatory aspects of the BDS movement and have taken legislative action to combat its spread. Currently, 28 states have passed legislation in opposition to the BDS movement, prohibiting state agencies from contracting with companies that boycott Israel, with several other states considering similar measures. Six other states have enacted anti-BDS executive orders.<sup>27</sup> State universities, of course, function within state government, and at least two legislatures have already debated legislation that would defund universities that participate in a boycott of Israel.<sup>28</sup> The state of Florida enacted legislation preventing state and local governments from entering contracts with companies participating in BDS against Israel and also preventing the state pension fund from investing in such companies.<sup>29</sup> In 2019, the U.S. House of Representatives passed a resolution 398-17 denouncing the boycott of Israel, and in the same year, the U.S. Senate passed the anti-boycott bill S.B. 1 by a margin of 74-19.<sup>30</sup>

#### □ How Institutional Neutrality Protects Your School (and You)

The best defense against pressure to divest or to initiate an academic boycott is a strong board policy of institutional neutrality.

Negotiation with students about divestment from Israel, or from any other nation, industry, or business, should be off the table. There is no limiting principle when trustees allow their institutions to become platforms for political causes. The endowment must be left in



the hands of financial professionals and not subject to the political pressures of student groups and external advocacy organizations. Boards that erode this fire wall now will fight new fires indefinitely.

We have recently seen the response of Vanderbilt University Chancellor Daniel Diermeier to divestment demands:

Our three commitments are free speech, or we call it open forum, institutional neutrality—which means that the university will not take policy positions unless they directly affect the operating of the university, so we don't take a position on foreign policy—and a commitment to civil discourse. Now, calling for BDS, for a boycott of Israel, is inconsistent with institutional neutrality. . . . we're not going to go there.<sup>31</sup>

The University of Chicago invoked its well-conceived policy of institutional neutrality in the face of demands from its students for divestment from Israel:

Over more than a century, through a great deal of vigorous debate, the University has developed a consensus against taking social or political stances on issues outside its core mission. The University's longstanding position is that doing this through investments or other means would only diminish the University's distinctive contribution—providing a home for faculty and students to espouse and challenge the widest range of social practices and beliefs.<sup>32</sup>

The university gave a similar answer to students demanding divestment from fossil fuels.<sup>33</sup>


Stanford University recently adopted a similar strategy:

The Trustees believe that the primary mechanism through which the endowment advances social good is through its financial support of the university's academic mission. Just as the University does not take positions on partisan or political issues, the Trustees maintain a strong presumption against using the endowment as an instrument to advance any particular social or political agenda. The Trustees believe that in most cases divestment from the University's endowment is an ineffective means of exercising investment responsibility, especially in comparison to the value of encouraging the University community to engage in education, research and debate.<sup>34</sup>

Breaking off ties with Israeli universities or ending student academic exchange programs should be rejected on similar grounds. It was particularly disgraceful that to placate the demonstrators at Evergreen State University, the institution adopted a policy of refusing approval of study abroad programs in Israel.<sup>35</sup>

There are strong financial reasons to reject BDS, as well. Those demanding universities to divest their endowments from any investments connected to Israel misunderstand the way endowments are managed. Indeed, such demands hurt the institution's ability to deliver the financial returns the university needs to support the campus community. Divestment runs contrary to ensuring that the endowment's return equals or exceeds its annual contribution to the university. Playing politics with the university's investments has the potential to do significant harm to the university's ability to operate and grow.






While endowments are often cast as piles of cash that institutions can use on a whim, the funds are endowed for specific purposes and only a small portion of the endowment is spent each year. On average, endowments fund nearly 11% of schools' annual operating budgets.<sup>36</sup> If an endowment declines, the institution either liquidates assets at a discount or decreases the size of the contribution to the university. Often, an endowment's position is in illiquid assets, like private equity, making divestment even more challenging. A significant portion of most endowments is managed by third-party investment firms that invest in complex funds with a variety of holdings. If a university is invested in a fund with holdings in, for example, 300 companies, it cannot select *à la carte* the few companies from which it wishes to opt out.

Finally, Israel's economy—home to some of the most cutting-edge innovation in financial technology, artificial intelligence, healthcare, agriculture, and more—is likely to align with the fiduciary responsibility to optimize investments. A mandate that universities divest from companies operating in or otherwise connected to Israel would foreclose the ability to invest in a host of mainstream sectors, from technology (Alphabet) to fast food (McDonald's) to innovations like the Emergency Bandage, now used by the U.S. Army and Special Forces.

While student assemblies have the right to pass resolutions criticizing Israel, the board needs to reject recommendations for university policies of divestment or academic boycott. It is an opportunity for moral leadership, also, to explain why the institution rejects such initiatives. The University of Chicago, Vanderbilt University, and Stanford University provide good models to follow.



Recently, Max Schanzenbach, the Seigle Family Professor of Law at Northwestern Pritzker School of Law, warned, “University trustees should think twice before they vote to sacrifice portfolio efficiency to placate student groups. Divesting from Israel would be a breach of fiduciary obligation that could expose trustees to personal liability for investment losses on multibillion-dollar endowments.” But beyond the possibility of financial loss to the institution and even to members of its board of trustees, Professor Schanzenbach calls boards back to the higher purpose of the university, a purpose best defended by adherence to institutional neutrality:

Instead of trying to debate the merits or achieve consensus around BDS, perhaps now is a good moment for university fiduciaries to re-embrace higher education as the actual charitable purpose of a university and invest solely for that mission. If only out of trustees’ self interest, if not that of higher education, they should give protesters a hard no.<sup>37</sup>



## Endnotes

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I believe in the power of ideas and truth. I am always in favor of debate, the clash of opinions, even the confrontation of convictions—hence, not of censorship. However, the Boycott, Divestment, Sanctions (BDS) campaign is anti-democratic, anti-Semitic, and dangerous—especially in the holy place where young minds are meant to explore and flourish.

The goal of this campaign is to delegitimize the only Jewish state in the world—Israel—and it should be stated, time and again, if necessary, that this position must be firmly condemned by all free-thinking and democratic citizens of the world.

—**Bernard-Henri Lévy**

Author, Filmmaker, and Humanitarian

## **American Council of Trustees and Alumni**

1730 M Street NW, Suite 600

Washington, DC 20036

P 202.467.6787 | F 202.467.6784

info@GoACTA.org | www.GoACTA.org