

1 Eric C. Rassbach (CA SBN 288041)
2 Mark L. Rienzi (DC Bar No. 494336)*
3 Laura Wolk Slavis (DC Bar No. 1643193)*
4 Jordan T. Varberg (DC Bar No. 90022889)*
5 Amanda G. Dixon (DC Bar No. 90021498)*
6 Richard C. Osborne (DC Bar No. 90024046)*
7 The Becket Fund for Religious Liberty
8 1919 Pennsylvania Ave. NW, Suite 400
9 Washington, DC 20006
10 202-955-0095 tel. / 202-955-0090 fax
11 erassbach@becketlaw.org

9 Paul D. Clement (DC Bar No. 433215)*
10 Erin E. Murphy (DC Bar No. 995953)*
11 Matthew D. Rowen (CA SBN 292292)
12 Clement & Murphy, PLLC
13 706 Duke Street
14 Alexandria, VA 22314

Attorneys for Plaintiffs

15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**

17 YITZCHOK FRANKEL *et al.*,
18 Plaintiffs,

19 v.

20 REGENTS OF THE UNIVERSITY OF
21 CALIFORNIA *et al.*,

22 Defendants.

Case No.: 2:24-cv-04702

**PLAINTIFFS' NOTICE
OF MOTION AND
MOTION FOR
PRELIMINARY
INJUNCTION**

Date: July 22, 2024

Time: 9:00 a.m.

Courtroom: 7C

Judge: Hon. Mark C. Scarsi

23
24
25
26
27
28

* admitted *pro hac vice*

1 TO DEFENDANTS AND TO THEIR COUNSEL OF RECORD:

2 NOTICE IS HEREBY GIVEN that on July 22, 2024, at 9:00 A.M. in
3 Courtroom 7C of the above-entitled court, located at 350 W. 1st St., Los
4 Angeles, California, Plaintiffs will move and hereby move this Court to
5 preliminarily enjoin Defendants from operating in a way that violates
6 Plaintiffs' constitutional and statutory rights.

7 As described in more detail in the accompanying memorandum,
8 Plaintiffs are three Jewish students currently enrolled at UCLA who
9 wish to attend classes and other activities free from discrimination and
10 antisemitic harassment. But as things stand, UCLA has failed to
11 guarantee Plaintiffs equal access to UCLA's educational facilities, indoor
12 and outdoor areas on campus, and UCLA-affiliated activities and
13 programs. Rather, Defendants have supported and facilitated religion-
14 and race-based exclusions.

15 UCLA's actions are unconstitutional in many respects. First, UCLA's
16 actions violate the Free Exercise Clause. The Supreme Court has
17 "repeatedly held that a State violates the Free Exercise Clause when it
18 excludes religious observers from otherwise available public benefits."
19 *Carson v. Makin*, 596 U.S. 767, 778 (2022). In addition, government
20 policies that (1) treat "*any* comparable secular activity more favorably
21 than religious exercise," *Tandon v. Newsom*, 593 U.S. 61, 62 (2021), or
22 (2) allow for a "discretionary" system of "individualized exemptions,"
23 *Fulton v. City of Philadelphia*, 593 U.S. 522, 533, 536 (2021), violate the
24 Free Exercise Clause unless they satisfy strict scrutiny. *Fellowship of*
25 *Christian Athletes v. San Jose Unified Sch. Dist. Bd. of Educ.*, 82 F.4th
26 664, 690 (9th Cir. 2023) (en banc). Here, UCLA's policies violate all three
27 commands, and the policies do not satisfy strict scrutiny.
28

1 Second, UCLA’s policies violate the Free Speech Clause. The
2 government’s attempt to regulate speech based on the “specific
3 motivating ideology or the opinion or perspective of the speaker” is a
4 “blatant” and “egregious” violation of the Free Speech Clause that is
5 “presumptively unconstitutional.” *Rosenberger v. Rector & Visitors of*
6 *Univ. of Va.*, 515 U.S. 819, 829-30 (1995). Similarly, the government
7 cannot “coerce an individual to speak contrary to her beliefs on a
8 significant issue of personal conviction.” *303 Creative LLC v. Elenis*, 600
9 U.S. 570, 598 (2023). Here, UCLA’s policies violate both of these core
10 First Amendment rules without satisfying strict scrutiny.

11 Third, UCLA’s policies violate the Equal Protection Clause. It has long
12 been established that denying access to public educational institutions
13 on the basis of religion or ethnicity violates the Constitution’s guarantee
14 of equal protection of the laws. *Students for Fair Admissions, Inc. v.*
15 *President & Fellows of Harvard Coll.*, 600 U.S. 181, 202-03 (2023). Here,
16 UCLA’s policies have led to the segregation of Plaintiffs based on their
17 race and religion, and this discrimination cannot survive strict scrutiny.
18 *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701,
19 720 (2007).

20 Finally, UCLA’s policies violate Title VI of the Civil Rights Act of 1964,
21 42 U.S.C. § 2000d *et. seq.* Specifically, Title VI prohibits discrimination
22 against Jews—including based on actual or perceived ancestry, race,
23 ethnic characteristics, or national origin. *Cf. Shaare Tefila Congregation*
24 *v. Cobb*, 481 U.S. 615, 616 (1987); 34 C.F.R. § 100.3(a), (b)(1)(iv), (vi).
25 Here, UCLA’s policies discriminated against Plaintiffs based on their
26 ethnicity as Jews by excluding them from participation in UCLA
27 programs and denying them the full benefits of those programs.
28

1 **WHEREFORE**, Plaintiffs pray that this Court grant a preliminary
2 injunction in this action. This request is based on this Notice of Motion
3 and Motion; the accompanying supporting Memorandum of Points and
4 Authorities; the supporting declarations and exhibits of Yitzchok
5 Frankel, Joshua Ghayoum, Eden Shemuelian, and Eric Rassbach; as well
6 as the papers, evidence, and records on file in this action; and any other
7 written or oral evidence or argument as may be presented at or before
8 the time this motion is heard by the Court. A proposed order is filed
9 herewith.

1 Dated: June 24, 2024

Respectfully submitted,

2
3 /s/ Eric C. Rassbach

Eric C. Rassbach (CA SBN 288041)

4 Mark L. Rienzi (DC Bar No. 494336)*

5 Laura Wolk Slavis (DC Bar No. 1643193)*

6 Jordan T. Varberg (DC Bar No.

90022889)*

7 Amanda G. Dixon (DC Bar No.

90021498)*

8 Richard C. Osborne (DC Bar No.

90024046)*

10 The Becket Fund for Religious Liberty

1919 Pennsylvania Ave. NW, Suite 400

11 Washington, DC 20006

12 202-955-0095 tel. / 202-955-0090 fax

erassbach@becketlaw.org

13
14 Paul D. Clement (DC Bar No. 433215)*

Erin E. Murphy (DC Bar No. 995953)*

15 Matthew D. Rowen (CA SBN 292292)

16 Clement & Murphy, PLLC

706 Duke Street

17 Alexandria, VA 22314

18 *Attorneys for Plaintiffs*

19
20 * admitted *pro hac vice*

PROOF OF SERVICE DECLARATION

1
2
3 1. Pursuant to Local Civil Rule 5-3.2.1, I certify that I will serve
4 Plaintiffs' Notice of Motion and Motion for Preliminary Injunction (and
5 all its attached documents) upon counsel for Defendants.

6 2. I will serve these documents by e-mail on Monday, June 24, 2024.

7 3. I will serve these documents on Jennifer Sokoler, Meaghan
8 VerGow, Anton Metlitsky, and Matt Cowan, all of whom are counsel for
9 Defendants Regents of the University of California; Michael V. Drake;
10 Gene D. Block; Darnell Hunt; Michael Beck; Monroe Gorden, Jr.; and
11 Rick Braziel, each in both his official and personal capacities. In doing so,
12 Plaintiffs will have provided notice to all adverse parties as required by
13 Federal Rule of Civil Procedure 65(a)(1).

14 4. The documents to be served include (1) Plaintiffs' Notice of Motion
15 and Motion for Preliminary Injunction; (2) Plaintiffs' Memorandum in
16 support of their Motion for Preliminary Injunction; (3) Declaration of
17 Yitzchok Frankel (and the accompanying exhibit); (4) Declaration of
18 Joshua Ghayoum (and all accompanying exhibits); (5) Declaration of
19 Eden Shemuelian (and all accompanying exhibits); (6) Declaration of Eric
20 Rassbach (and all accompanying exhibits); and (7) Plaintiffs' Proposed
21 Order.

22 5. In accordance with Federal Rule of Civil Procedure 5(b)(2)(E), these
23 documents will be served electronically by email. Counsel for Defendants
24 consented in writing to this method of service on Friday, June 21, 2024.

25 Dated: June 24, 2024

26 /s/ Eric C. Rassbach

27 Eric C. Rassbach

28 *Counsel for Plaintiffs*