



**TIM GRIFFIN**  
ATTORNEY GENERAL

August 26, 2024

*Sent via First Class Mail*

Trustees and Fellows of Brown University  
Brown University  
Corporation Office  
Brown University  
Box 1887  
Providence, RI 02912

Re: Letter from the State of Arkansas and 23 other States urging rejection of the “Brown Divest Now” proposal

Dear Fellows and Trustees of Brown University:

The States of Arkansas, Alabama, Alaska, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Texas, Utah, Virginia, and West Virginia urge you to reject the “Brown Divest Now” proposal at the Brown University Corporation’s October meeting. That proposal is only the latest part of an antisemitic pressure campaign spearheaded by a group calling itself “Students for Justice in Palestine”; that group is linked to entities that the U.S. Department of State designates as “foreign terrorist organizations.” Dan Diker, *Students for Justice in Palestine Unmasked*, Jerusalem Ctr. for Pub. Affairs (2018), <https://perma.cc/ECB8-2SEA>; *Foreign Terrorist Orgs.*, U.S. Dep’t of State, <https://perma.cc/88LJ-J7Y6>; see 8 U.S.C. 1189.

If adopted, the Brown Divest Now proposal will have immediate and profound legal consequences for Brown, its employees, and its student body because it may trigger the application of laws in nearly three-fourths of States prohibiting States and their instrumentalities from contracting with, investing in, or otherwise doing business with entities that discriminate against Israel, Israelis, or those who do business with either. Adopting that proposal may require our States—and others—to terminate any existing relationships with Brown and those associated with it, divest from any university debt held by state pension plans and other investment vehicles, and otherwise refrain from engaging with Brown and those associated with it. We therefore urge you to reject this antisemitic and unlawful proposal.

## Background

Brown University formed the Advisory Committee on Corporate Responsibility on Investment Policies (ACCRIP) in 1978 to consider ethical standards for the University’s investments and business practices. Brown University, *History*, Advisory Comm. on Univ. Res. Mgmt., <https://perma.cc/26XC-AP3U>. In 2012, ACCRIP asked Brown University President Christina H. Paxson to “initiat[e] a forum for broader exploration” of calls from the Brown chapter of Students for Justice in Palestine (SJP) “for Brown to divest from companies” that do business with Israel. ACCRIP Letter to President Paxson (Nov. 12, 2012), <https://perma.cc/S4HX-4G8J>. President Paxson sensibly declined to yield to those unlawful demands. See Letter from President Paxson to ACCRIP (Nov. 23, 2012), <https://perma.cc/7CMW-N5YX>.

Then, in 2020 ACCRIP itself published a report calling on Brown to divest from companies that do business with Israel. ACCRIP, *Report of the Advisory Comm. on Corp. Responsibility in Inv. Policies To Recommend Divestment from Comps. that Facilitate the Israeli Occupation of Palestinian Territory* (January 2020), <https://perma.cc/39FQ-WREB>. Shortly thereafter, the Advisory Committee on University Resources Management (ACURM) was established to succeed and take over the ACCRIP’s mandate. *ACURM History*, Brown University <https://perma.cc/J7B7-49NA>.

President Paxson responded to ACCRIP’s call for divestment by letter. She explained that the proposal “d[oes] not adequately address the requirements for rigorous analysis and research” or “how financial divestment from the entities would address social harm as defined in the committee’s charge.” Letter from President Paxson to ACURM (March 9, 2021), <https://perma.cc/R55D-7NW3>. President Paxson explained that “[t]he standard is high for Corporation consideration of any action to divest Brown’s investment holdings,” and she cautioned that “Brown’s endowment should not be used as an instrument to take sides on contested geopolitical issues over which thoughtful and intelligent members of the Brown community vehemently disagree.” *Id.*

### October 7 and Campus Antisemitism Fomented by Students for Justice in Palestine

On October 7, 2023, Hamas terrorists invaded Israel from Gaza and perpetrated the worst massacre of Jews since the Holocaust. The militants burned alive, decapitated, shot, or otherwise killed at least 1,189 men, women, children, and babies. Agence France Presse, *New Tally Puts Oct 7 Attack Death Toll in Israel At 1,189*, Barron’s (May 28, 2024), <https://perma.cc/CW9D-W5HR>. Over 250 people who survived but could not escape were forcibly kidnapped and held captive in Gaza, many of whom remain unaccounted for to this day. *Id.*

In the wake of this horrendous terrorist attack, SJP redoubled its efforts to pressure university administrators to take action against Israel. The group’s national chapter issued an abhorrent statement describing the October 7 massacre as “a historic win for the Palestinian resistance” and announced a “call to action” asking students to pressure university administrators to act against Israel and Israelis. Tawnell D. Hobbs, et al., *Activist Groups Trained Students for*

*Months Before Campus Protests*, The Wall Street Journal (May 3, 2024), <https://perma.cc/BD3F-FS72>; Brian Flood, *Here’s Where Students for Justice in Palestine Held Coll. Protests this Week*, Fox News (October 13, 2023), <https://perma.cc/XK6Q-FPBE>.

The Brown SJP chapter similarly issued a statement claiming that it “hold[s] the Israeli regime and its allies unequivocally responsible for all suffering and loss of life, Palestinian or Israeli,” and that it “stand[s] in solidarity with Palestinian resistance.” Brown SJP, *Brown SJP Statement 2023-10-11* (Oct. 11, 2023). The statement was signed by 50 different student groups. *Id.* It claimed that “Brown’s endowment is invested in” various “companies profiting from Israel[,]” and it “reiterate[d]” its “call on Brown and President Paxson” to “end Brown’s complicity in” what it ludicrously labeled “the Israeli apartheid regime.” *Id.* At an SJP demonstration held the next day, a student gave prepared remarks that included, among other antisemitic statements, the terrorist chant, “Glory to our martyrs from the river to the sea.” Kristina Watrobski, *Brown Univ. Student Backs Palestine After Terrorist Invasion of Israel: ‘Glory to our Martyrs’*, The National Desk (Oct. 13, 2023), <https://perma.cc/4Q8N-F3LS>.

Brown SJP then upped its pressure campaign, organizing a “sit-in” at Brown’s administrative offices, Brown SJP, *Jews for Ceasefire Now Sit-In at Univ. Hall*, <https://perma.cc/R86Q-X7KX>, and conducting a hunger strike in connection with the Brown University Corporation’s February meeting. Olivia Ebertz, *Brown University Students End Hunger Strike After Confronting Sch. Bd. Members*, The Public’s Radio (Feb. 9, 2024), <https://perma.cc/NP6D-NS4X>.

Shortly thereafter, the Federal Bureau of Investigation was called in to investigate threats sent to Brown Hillel Weiner Center Rabbi Josh Bolton and Assistant Director Molly Goldmeier. Beth Harpaz, *FBI Investigating Violent Threats Sent to Hillel Leaders at Brown and Rhode Island Sch. of Design*, Forward (Feb. 12, 2024), <https://perma.cc/358B-2P8F>. Those violent, antisemitic threats shocked students, prompting one to explain how “it was absolutely gut-wrenching to see that the only safe space that is left for us Jewish students on campus was threatened.” *Id.* But as Rabbi Bolton explained, it was only the latest example of violent activity and “[o]ver the past three or four months . . . Jewish students [at Brown] ha[d] been on the receiving end of very nasty rhetoric that has at times employed antisemitic tropes, themes and images.” *Id.* “The hardest part,” he said, is that “like on many campuses,” Jewish students at Brown “tend to be gaslit about antisemitism, with people saying, ‘Well, it’s not so bad. . . . You have the resources to deal with it.’” *Id.*

Federal investigators with the U.S. Department of Education found that Brown University took “no or little action in response” to 75 complaints of harassment from October 2023 through March 2024, including “allegations that students pointed at a Jewish classmate’s Star of David jewelry and yelled ‘Zionist pig Jew,’” and that “students blocked a Jewish classmate from attending” a rally. U.S. Dep’t of Educ., *U.S. Dep’t of Educ. Off. for Civil Rights Announces Resolution of Complaint Against Brown Univ. Alleging Antisemitic Discrimination* (July 8, 2024), <https://perma.cc/U2US-G2D8>.

### **Students for Justice in Palestine’s Pressure Campaign Pays Off**

On April 24, 2024, Brown SJP organized a “Gaza Solidarity Encampment” on the University’s Main Green. Brown SJP, *Brown Divest Joins Global Encampment Movement*, <https://perma.cc/G3H8-7PF6>. That group, calling itself the “Brown Divest Coalition,” principally demanded that Brown University divest from companies that do business with Israel.

Six days later, Brown University representatives signed an agreement to end the occupation of the University’s Main Green. Final Agreement (Apr. 30, 2024), <https://perma.cc/8RQK-2HQ8>. Despite recognizing that occupiers “have violated a range of Brown University policies,” Office of the President, *Agreement to End the Encampment* (April 30, 2024), <https://perma.cc/QB53-BY25>, Brown shockingly agreed not to suspend any student or derecognize any student group for violations of its Code of Conduct. Final Agreement, *supra*. Brown also acceded to several of SJP’s demands. *Id.* Specifically, Brown agreed that its Chancellor, the Chair of the Investment Committee, and three other members of the Brown University Corporation would meet with students to discuss divestment. *Id.*; see Brown Divest Coalition, *Brown Divest Now, A Critical Edition of: “To Recommend Divestment from Comps. that Facilitate the Israeli Occupation of Palestinian Territory” A Report of the Brown Univ. Advisory Comm. on Corp. Responsibility in Inv. Policies, January 2020* (Feb. 2024) (hereinafter, “Brown Divest Now”). And critically, in a reversal of President Paxson’s consistent position, Brown agreed that “the matter will be placed on the agenda of the Corporation business meeting for a vote in October 2024,” adding that “[t]he Corporation is fully committed to voting on this matter in October 2024 and that vote will not be deferred or delayed.” *Id.*

### **The Brown Divest Coalition’s Call for Divestment is Unlawful**

The “Brown Divest Now” proposal that you, the Fellows and Trustees of Brown University, will be voting on calls for Brown to divest from companies including Textron, Safariland, Volvo Group, Airbus, Boeing, General Dynamics, General Electric, Motorola, and RTX Corporation (formerly Raytheon and United Technologies) because they do business with Israel. Brown Divest Now, *supra*, at 5-6, 32-36. It also calls for implementation of a comprehensive set of screening procedures across Brown’s endowment portfolio designed to terminate investments in Israeli companies or in companies doing business with Israel. *Id.* at 24-28. Like the Arab League’s boycott of Israel that the United States has long opposed, see 50 U.S.C. 4842(a); 48 C.F.R. 652.225-71; 15 C.F.R. 760.2, this effort is designed to isolate and inflict economic harm on Israel, Israelis, and Israel’s allies.

Should you adopt the Brown Divest Now proposal, you may trigger the application of state laws throughout the country that prohibit States and their instrumentalities from contracting with, investing in, or otherwise doing business with entities that discriminate against Israel, Israelis, or those who do business with either. Indeed, at least 37 States currently have laws designed to

aggressively combat the antisemitic Boycott, Divestment, and Sanctions (BDS) movement.<sup>1</sup> And federal courts of appeal have upheld those laws against legal challenges. *See Arkansas Times LP v. Waldrip*, 37 F.4th 1386, 1395 (8th Cir. 2022) (en banc) (upholding Arkansas’s statute); *see also Abdullah v. Paxton*, 65 F.4th 204 (5th Cir. 2023) (plaintiff lacked injury from anti-BDS law).

Anti-BDS laws, like Arkansas’s statute, reflect the States’ interest in aggressively combating antisemitic conduct and national origin discrimination, and those laws require States to take decisive action in response to discriminatory conduct. In particular, as relevant here, were Brown to adopt the Brown Divest Now proposal, our States—and others—may, among other things, terminate any existing relationships with Brown and those associated with it, divest from any university debt held by state pension plans and other investment vehicles, and otherwise refrain from engaging with Brown and those associated with it. Indeed, in response to reports about Brown consideration of the Brown Divest Now proposal, many of our States are currently undertaking a review of our pension investments and contracts to determine if Brown has already violated state law.

Others have discovered to their detriment that those laws have profound financial consequences, and we would strongly counsel you to learn from those past examples. When Ben & Jerry’s, a subsidiary of Unilever, recently attempted to boycott Israel, the application of state anti-BDS laws led to the divestment of hundreds of millions of dollars in Unilever stock by state pension funds and, eventually, the termination of the Unilever CEO. *See* Jesse M. Fried and David H. Webber, *Colleges Divesting From Israel Face a Ben & Jerry’s Meltdown*, *Newsweek* (May 13, 2024), <https://perma.cc/UJW8-V4UN>. We urge you to avoid making a similar mistake.

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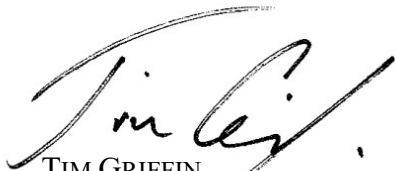
<sup>1</sup> *See* Ala. Code 41-16-5; Alaska Admin. Ord. No. 352; Ariz. Rev. Stat. Ann. 35-393 et seq.; Ark. Code Ann. 25-1-501 et seq.; Cal. Gov’t Code 16649.88; Cal. Pub. Cont. Code 2010; Colo. Rev. Stat. Ann. 24-54.8-201 et seq.; Fla. Stat. Ann. 215.4725; Ga. Code Ann. 50-5-85; Idaho Code Ann. 67-2346; 40 Ill. Comp. Stat. Ann. 5/1-110.16; *id.* 582/1 et seq.; Ind. Code Ann. 5-10.2-11-1 et seq.; Iowa Code Ann. 12J.1 et seq.; Kan. Stat. Ann. 75-3740e et seq.; Ky. Rev. Stat. Ann. 45A.607; La. Stat. Ann. 39:1602.1; Md. Ex. Ord. No. 01.01.2017.25; Mich. Comp. Laws Ann. 18.1261; Minn. Stat. Ann. 16C.053; Minn. Stat. Ann. 3.226 et seq.; Miss. Code Ann. 27-117-1 et seq.; Mo. Ann. Stat. 34.600; Nev. Rev. Stat. Ann. 286.735 et seq., 332.065, 333.338, 355.300 et seq.; N.H. Ex. Ord. No. 2023-05; N.J. Stat. Ann. 52:18A-89.14; N.Y. Ex. Ord. No. 157; N.C. Gen. Stat. Ann. 147-86.80 et seq.; N.D. Cent. Code Ann. 54-06-41, 54-44.4-15; Ohio Rev. Code Ann. 9.76; Okla. Stat. Ann. tit. 74, sec. 582; 62 Pa. Stat. and Cons. Stat. Ann. 3601; 37 R.I. Gen. Laws Ann. 37-2.6-1 et seq.; S.C. Code Ann. 11-35-5300; S.D. Ex. Ord. No. 2020-01; Tenn. Code Ann. 12-4-119; Tex. Gov’t Code Ann. 808.001 et seq., 2271.001 et seq.; Utah Code Ann. 63G-27-102 et seq.; W. Va. Code Ann. 5A-3-63; Wis. Stat. Ann. 20.931.




**Conclusion**

As Fellows and Trustees of Brown University, you are set to vote on the Brown Divest Now proposal. That vote is scheduled to take place in October 2024, close to the one-year mark of the horrendous October 7 terrorist attack on Israel. Our States urge you to reject this antisemitic and unlawful proposal.


Sincerely,




TIM GRIFFIN  
Arkansas Attorney General




TREG TAYLOR  
Alaska Attorney General



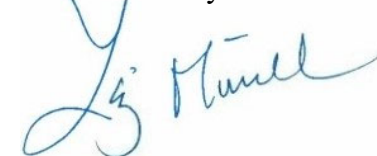
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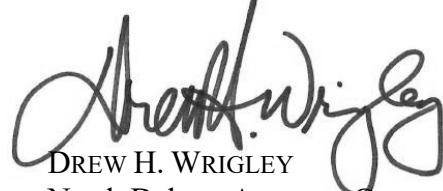
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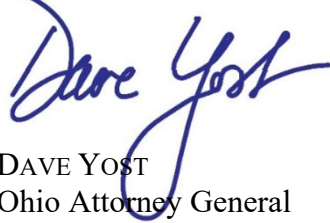
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