

## Judge to Weigh Limiting EEOC's UPenn Jewish Staff List Request

By Rebecca Klar 2026-03-09T05:02:01000-04:00

The EEOC's broad subpoena power will be put to the test as the University of Pennsylvania prepares to argue Tuesday the school need not identify Jewish faculty members for an antisemitism probe.

UPenn and intervening faculty and student groups seek to convince US District Court for Eastern District of Pennsylvania Judge Gerald Pappert in oral arguments not to [enforce](#) the Equal Employment Opportunity Commission's [request that it receive contact information](#) for staff involved in the college's Jewish Studies program or Jewish groups on campus.

The probe is part of [broader](#) Trump administration-initiated antisemitism [investigations of colleges](#), but UPenn's resistance raises questions about balancing the agency's reach with workers' privacy and other freedoms.

Faculty and student group intervenors wrote in a brief that in a time of rising harassment against Jews, the EEOC's request is in reality "more likely to facilitate than to redress antisemitism."

"The potential discrimination victims are themselves the ones who are objecting to this turning over of information," said Karla Gilbride, deputy director of Public Citizen's Litigation Group and former Democratic EEOC general counsel. Public Citizen filed an amicus brief supporting UPenn.

The commissioner charge filed by current Republican EEOC Chair Andrea Lucas alleges since at least November 2022 there's been a pattern of antisemitic behavior and harassment at UPenn, pointing to a hostile work environment.

The charge notes a variety of sources including news reporting and court filings, as well as statements from university leadership, and congressional testimony following campus protests on the Israel-Hamas war.

In addition to information on employee leaders of Jewish groups and Jewish Studies faculty, the

EEOC seeks a list of staff who participated in UPenn's Task Force on Antisemitism listening sessions, and those identified in a social media post from the account "penn.against.the.occupation."

UPenn said it cooperated with the commission for more than two years, producing nearly 900 pages of material, and offering to send notices to all employees of the EEOC's desire to hear about experiences of antisemitism.

## EEOC Power

The EEOC said its request is within the agency's authority and relevant, since gathering information about UPenn's workforce experience with antisemitism will help the commission determine whether there is a hostile work environment and how UPenn responded to harassment.

Courts typically defer to government agencies' subpoena requests, putting onus on UPenn to show why this request shouldn't be enforced.

"I would be surprised if the court said, 'you can't get any information to investigate this,'" said Paul Barsness, a partner at Bradley Arant Boult Cummings LLP.

"The bigger question is, are there going to be additional confidentiality obligations imposed, are there going to be limits of information that has to be turned over?" he said.

The court will first establish if the underlying charge is valid and then determine the relevance of requests.

UPenn said in its brief employees' privacy interests outweigh the EEOC's need for the lists.

If lists were somehow made public, identified individuals identified could face "real risk of antisemitic hate," the university wrote.

The EEOC said an employer's claim of privacy or confidentiality is not a valid basis to withhold requested information.

“Respondent cannot be the gatekeeper between the EEOC and potential witnesses to and victims of harassment,” the agency said.

The subpoena could also sweep in people who didn't experience or witness antisemitism, said Gilbride.

Privacy aside, the university and intervenors argued the request could burden the First Amendment associational rights of those on campus who want to participate in Jewish groups. It could also have a chilling effect on religious practice, intervenors wrote.

## Lucas' Charge

UPenn said the charge, based largely on publicly available information, fails to identify any employee complaints received or any specific workplace incidents.

UPenn noted that a federal judge in June dismissed a Title VI case brought by Jewish students against the university, finding that they failed to show the school engaged in intentional discrimination.

Proving an EEOC charge isn't valid, though, is a high bar, and the court will likely accept the commissioner truly believes there is antisemitism occurring and is investigating those allegations, Barsness said.

The judge could find the agency made improper use of a subpoena, as a Maryland [federal court did recently](#) when the Department of Justice unsuccessfully sued a hospital to obtain medical records on gender affirming care.

The pushback from intervenor groups that include Jewish faculty may help the university make this argument, since it constitutes an objection from the category of employee the EEOC says it seeks to protect, Barsness said.

“Normally we would assume the government is acting on behalf of these individuals and if they are the ones saying they don't want the information out, it could imply the government's insistence is indicative of improper purpose,” he said.

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The case is [EEOC v. Trustees of the University of Pennsylvania](#) , E.D. Pa., No. 2:25-cv-06502 .

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