



University of Pennsylvania Ordered to Create List of Jewish Employees and Provide to EEOC: What You Need to Know

Blogs

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On Tuesday, March 31, 2026, a federal judge ordered the University of Pennsylvania to compile a list of Jewish employees and turn it over to the EEOC. *EEOC v. The Trustees of University of Pennsylvania*, Case 2:25-cv-06502-GDP (E.D.Pa. March 31, 2026).

Specifically, the judge ordered Penn to comply with a subpoena issued by the EEOC seeking:

1. Names of any employees who reported antisemitic harassment;
2. Jewish related organizations on campus; and
3. Private contact information (personal phone number, email address, and mailing address of:
 - a. employee members of each organization
 - b. employees in Penn's Jewish Studies Program
 - c. employees who participated in listening sessions on antisemitism, and
 - d. employees who received a Penn survey on antisemitism.

Background

On her own initiative, and based upon “publicly available information,” EEOC Commissioner Andrea K. Lucas issued a charge of discrimination against Penn, alleging a pattern and practice of discrimination against Jewish employees in violation of Title VII. While the Commissioner has the authority to issue a charge absent an employee complaint, the charge cites no specific employee complaints, or allegations of any workplace incidents of discrimination or harassment. Rather, the charge is based upon statements made by Penn’s President about disturbing acts of antisemitism on campus and on a since-dismissed lawsuit filed by three Jewish students

against Penn related to a hostile educational environment. *Yacoby v. Trustees of University of Pennsylvania*, No. 23-4789, 2025 WL 1558522 (E.D. Pa. June 2, 2025).

In furtherance of the investigation of the charge, the EEOC issued a subpoena to Penn seeking, among other things, the above detailed private information. When Penn refused to comply, the EEOC sued to enforce the subpoena.

Court's Ruling

Penn (and five intervenor organizations) made several arguments against providing the information, citing privacy and constitutional concerns. As an alternative to creating a list of Jewish employees, Penn offered to advise its employees of the investigation and provide them with EEOC contact information. The court rejected Penn's arguments, focusing instead on (a) the sufficiency of the charge of discrimination, (b) the relevance of the information requested and (c) whether the information requested is unduly burdensome to Penn. The court held that the charge was sufficient to put Penn on notice of the EEOC's investigation into discrimination against Jewish employees. Secondly, the court, applying a well-established "low bar" to determine relevance, deemed the information requested in the subpoena to be relevant to the investigation into religious discrimination. Finally, the judge held that Penn provided no evidence of an undue burden and ordering Penn to respond to the subpoena, "though without revealing any employee's affiliation with a specific organization." Notably, the judge also stated that employees can refuse to participate in the investigation, once contacted by the EEOC.

Penn has issued a statement indicating they will appeal the decision, emphasizing that it does not maintain employee lists by religion and that "requiring Penn to create lists of Jewish faculty and staff, and to provide personal contact information raises serious privacy and First Amendment concerns."

It is unclear whether this decision will survive an appeal. Multiple civil rights organizations, including the ACLU, have pledged to support Penn's efforts to overturn the decision. It would not be surprising to see other educational institutions file amicus briefs in support of Penn's appeal.

As it stands, this decision underscores the broad investigatory powers of the EEOC and also serves as a stark reminder that colleges and universities are facing increased scrutiny of alleged antisemitism on their campuses.

Implications and Risk Mitigation

Colleges and universities, particularly in Pennsylvania and New Jersey, need to be diligent in addressing any concerns of alleged antisemitism and/or hostile work environment on campus, so they do not become the next EEOC Respondent. Moreover, the decision is a reminder of the broad investigatory and subpoena power of EEOC, and the low bar that courts might use to determine relevance of EEOC information requests. These employers should audit their policies on collection and maintenance of personal information, make any necessary changes and ensure employees are trained on any new practices and procedures.

Institutions also need to be prepared for the employee and student reaction that such subpoenas (and compliance with those subpoenas) will undoubtedly unleash.



Archer will follow the next steps in the Penn case, given the likelihood of an appeal. If you have any questions or need assistance on this matter, contact **Elizabeth Leo** at eleo@archerlaw.com or 570.417.2244 or any member of the **Higher Education Practice Group**.

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