



**STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR**

CHRISTOPHER T. SUNUNU
Governor

**STATE OF NEW HAMPSHIRE
BY HIS EXCELLENCY
CHRISTOPHER T. SUNUNU, GOVERNOR**

Executive Order 2023-05

Prohibiting Discriminatory Boycotts of Israel in State Procurement and Investments

WHEREAS, the State of New Hampshire and the State of Israel have experienced decades of successful exchange of commerce, culture, technology, tourism, trade, economic development, scholarly inquiry, and academic research; and

WHEREAS, these accomplishments have helped generate over one billion dollars in exports since 1996 and over one-hundred million dollars of exports in 2021, and this trade has contributed to substantial job creation in the State; and

WHEREAS, this ongoing cooperation helps keep New Hampshire at the cutting edge of scientific, healthcare, technology and industrial practices that materially benefit the competitiveness of our State's businesses and the quality of life of our State's citizens; and

WHEREAS, boycotts of entities and individuals of specific countries often amount to ethnic, religious, racial and/or nationality discrimination, which directly contradicts the public policy of the state and the values of its people; and

WHEREAS, Israel is the specific target of a dedicated hate movement that seeks to isolate it economically, alienate it socially and coerce neutral businesses into joining the hate-driven boycott against their will; and

WHEREAS, it is the public policy of the United States, as enshrined in several federal laws, to oppose boycotts against Israel (*see, e.g.*, 50 App. U.S.C. § 2407; 26 U.S.C.A. § 999), and Congress has concluded as a matter of national trade policy that cooperation with Israel materially benefits U.S. companies and improves American competitiveness (*see, e.g.*, 19 U.S.C. § 2112 note; 19 U.S.C. § 4201(b)(20); and

WHEREAS, there can be no exhaustive definition of antisemitism, as it can take many forms, the International Holocaust Remembrance Alliance (IHRA) Working Definition has been an essential definitional tool used to determine contemporary manifestations of antisemitism, and includes useful examples of discriminatory anti-Israel acts that cross the line into antisemitism; and

WHEREAS, the State has a longstanding and broad policy to refrain from contracting with business entities that unlawfully discriminate in the solicitation, selection, hiring, or commercial treatment of vendors, suppliers, subcontractors, or commercial customers; and

WHEREAS, these actions will help New Hampshire maintain a fair and level playing field for all our citizens, regardless of their national origin, and will protect the rights of our local businesses to engage freely in good business without fear of the coercive tactics of the anti-boycott, divestment, and sanctions hate movement.

NOW, THEREFORE, I, CHRISTOPHER T. SUNUNU, GOVERNOR of the State of New Hampshire, by the authority vested in me by Part II, Article 41 of the New Hampshire Constitution, do hereby order, effective immediately, that:

1. Notwithstanding any other provision of law, no executive branch agency may adopt any investment policy that would have the effect of requiring or inducing any person to boycott Israel. *See Appendix 1.*
2. Executive branch entities will be restricted from investing in companies found to be engaged in a boycott of Israel. *See Appendix 1.*
3. No executive branch agency shall contract with a company that has been determined to be boycotting Israel. *See Appendix 1.*
4. Any executive branch agency that enters a contract shall make the contracting party aware that the agency will not tolerate any boycotting of Israel. *See Appendix 1.*

Given under my hand and seal at the Executive Chambers in Concord, this 6th day of July, in the year of Our Lord, two thousand and twenty-three, and the independence of the United States of America, two hundred and forty-seven.


GOVERNOR OF NEW HAMPSHIRE

Appendix 1 to Executive Order 2023-05

A. As used in Executive Order 2023-05:

1. "Boycott Israel" means engaging in refusals to deal, terminating business activities, or other similar commercial actions intended to limit commercial relations with persons doing business in Israel or in Israeli-controlled territories when the actions are taken:
 - 1.1. In compliance or adherence to calls for a boycott of Israel, other than those boycotts to which Public Law No. 96-72 [50 U.S.C. 2407(c)] apply; or
 - 1.2. In a manner that discriminates on the basis of nationality, national origin, or religion.
2. "Company" means any organization, association, corporation, partnership, joint venture, limited partnership, limited liability company, or other entity or business association, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate.

B. If any executive branch agency receives evidence that a company boycotts Israel, the agency shall determine whether the company boycotts Israel. A company statement that indicates the company is participating in a boycott of Israel or has taken boycott action at the request, in compliance with, or in furtherance of calls for a boycott of Israel, may be considered as one type of evidence that the company is participating in a boycott of Israel. An expressive activity, alone, directed at a specific person or a governmental action may not be considered evidence of a boycott of Israel.

C. If an executive branch entity determines that it is investing in companies found to be engaged in a boycott of Israel, the agency shall sell, redeem, divest, or withdraw all direct holdings in such companies in an orderly and fiducially responsible manner within three months after determination of the company's boycott status.

1. If a company ceases boycott activity and submits a written certification to the New Hampshire State Treasury that it shall not reengage in such activity for the duration of any investment by the state, the company shall no longer be considered to be boycotting Israel.

D. All contracts entered into by executive branch agencies shall include a provision that makes clear that a determination that a company is boycotting Israel shall be grounds for termination of any contract with that company. All requests for information, requests for proposals, or other similar requests related to a competitive bidding process for a contract shall include a provision that makes clear that any bidder or interested party that is determined to be boycotting Israel shall be disqualified.

E. If any provision of Executive Order 2023-05, or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of those sections are severable.
