
***Hiring to Firing Podcast* — From Punchlines to Prejudice: Confronting Antisemitism in the Workplace**

Hosts: Tracey Diamond and Emily Schifter

Guest: Andrew Goretsky

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Emily Schifter (00:00):

Well, Tracey, today for our podcast, we are using an episode of Inside Amy Schumer that talks about antisemitism in the workplace to help us explore that topic with our guest. It got me thinking, that show is a pretty quintessential dark comedy. In terms of dark comedies, about as dark as I go is *O Brother, Where Art Thou?* So curious if you have any favorite dark comedy movies or TV shows.

Tracey Diamond (00:19):

Yeah, so I would say the dark comedy movie that has stayed with me the longest was *The Menu*, which frankly has ruined every high-scale restaurant for me forevermore because I can't eat a really expensive meal without thinking about that movie. Today though, Amy Schumer tackles antisemitism in the workplace with a dark comedy sketch about a harassment workshop that goes awry. Let's listen in to our guest Andrew Goretsky from ADL and a really important discussion about antisemitism in the workplace. Welcome to *Hiring to Firing* the podcast. I'm Tracey Diamond, a labor and employment partner at Troutman Pepper Locke, and I'm here with my partner and co-host Emily Schifter. Together we handle all issues from hiring to firing.

Emily Schifter (01:11):

We have invited Andrew Goretsky, Senior Regional Director of the Anti-Defamation League in Philadelphia, to join us. So welcome to the podcast, Andrew. Tell us a little bit about your background and work for ADL.

Andrew Goretsky (01:22):

Well, first, really just happy to be here. Thank you for having me on the podcast today. My name is Andrew Goretsky. As Senior Regional Director for the Philadelphia office of ADL, I oversee directly our work in Eastern Pennsylvania, Southern New Jersey, and Delaware. For those of you who don't know the ADL, we are an organization over 100-year-old mission to fight the defamation of the Jewish people and secure justice and fair treatment to all. We do that through combating extremism. We do it through looking at technology and technology spaces. We do it through Title VI and Title VII, and we do it through protecting the Jewish community. We do it through advocating, and we do it through education. My own background, I worked for 23 years in higher education administration before joining ADL in January of 2022.

Andrew Goretsky (02:10):

My doctorate's in higher education administration from The George Washington University. My research area is student engagement in mobile technology, so I have particular interest in the proliferation of hate in online spaces. And in addition to that, I am also affiliate faculty at Gratz College, and I taught higher ed law and policy at Temple University. When I asked if they want me to teach it because I'm not an attorney, they said, we want deans knowing when to call the attorneys, not being attorneys themselves. So that's where they had me teach that class. Throughout the podcast, I may share different pieces as to why I joined ADL, why I made the move from higher ed, but very happy to be here. And that's a bit about my background.

Tracey Diamond (02:49):

In full disclosure, Andrew and I met when I was on the regional board of the Philadelphia area ADL. I remember when he first came on board, and he's really been a wonderful tour de force for the Philadelphia area on behalf of ADL.

Andrew Goretsky (03:01):

Thank you, Tracey.

Tracey Diamond (03:02):

Andrew, why don't we start with some definitions? When we talk about antisemitism, what are we talking about?

Andrew Goretsky (03:07):

Well, the definition that the Anti-Defamation League uses is the International Holocaust Remembrance Alliance definition of antisemitism. And really the definition is, antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Its rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, and toward Jewish community institutions and religious facilities. And the thing we have to think about when it comes to the IHRA definition, antisemitism persists because it is a series of stereotypes and tropes that have existed for over a millennia, and they morph for modern times.

Andrew Goretsky (03:50):

One of the reasons I came to ADL, I was observing the Unite the Right rally that was happening in Charlottesville a number of years ago, and I remember them chanting, "Jews will not replace us". And I was wondering, what does this have to do with this protest? Because for reference, that protest was about Confederate statues coming down and as a Jewish man, I was like, what does this even have to do with this? And that's when I learned about great replacement conspiracy theory, which is this conspiracy theory that white America is being replaced by black and brown people and that there's this all-powerful cadre of Jews allegedly spearheading that.

Andrew Goretsky (04:12):

That is a modern evolution of typical power tropes of inordinate power that people for some reason believe that Jewish people have. That's also the rationale that the shooter used for shooting the Tree of Life Synagogue in Pittsburgh. And so these are how these types of tropes and stereotypes persist over time. And then the other thing I want to mention about the IHRA definition is that it helps school districts, universities, and governments identify and respond to antisemitism because it gives a definition. It's been used since at least 2019 by the U.S. Department of Education, and it was embraced in 2023 by the U.S. National Strategy to Counter Antisemitism in all its forms. And so there's a number of countries that accept it. It's accepted in the United States. It is a non-legally binding working definition of antisemitism.

Andrew Goretsky (05:21):

And the last thing I'll say here, because I know that there are people who look at this and criticize it because they believe, and there's false narrative out there, that it hinders free speech around criticism of Israel, when in fact the definition explicitly and clearly states that the criticism of Israel similar to that leveled against any other country cannot be regarded as antisemitic. However, when such criticism employs classic antisemitic tropes like the one I described, when it denies Jewish people the right to self-determination or applies double standards not expected of any other nation, that's when it crosses into antisemitism. And it talks about when things cross into. And how I often talk about this is you can be critical of the Israeli government, you can be critical of the American government, but when you start saying that Israel should cease to exist as a Jewish state, that's where you're crossing that line.

Tracey Diamond (06:17):

It's always been so disappointing to me that anyone could find the IHRA definition controversial because it seems like it's such an obvious statement of what antisemitism is. But here we are in the world.

Andrew Goretsky (06:29):

If I can put one other comment here on that. And again, my space is the college space. The IHRA definition as an example shows something like this before October 7th even occurred. And hopefully your audience knows the reference when I'm talking about October 7th, which was the Hamas attack on Israel. I used to talk about modern-day antisemitism on campuses where I had a young student who considered herself progressive, went to a student organization, and it was an organization that was fighting sexual assault and sexual misconduct. And they wanted to combat that.

Andrew Goretsky (07:06):

And she went and she was wearing her Jewish star. And immediately upon entrance, people started saying, oh, you're Jewish. Where do you stand on Israel? And, basically before she can even answer, and as she said, she wasn't supportive of the Israeli government but is supportive of Israel's right to exist, they told her, because you support Israel, you can't be here because we

don't allow Israel supporters to be here. And it had nothing to do with that. And so this is the type of discrimination we're talking about that occurs as it relates to Jewish identity connection to the state of Israel.

Tracey Diamond (07:39):

So let's bring it to the workplace, what we're talking about today. Jews make up just 0.02% of the world population, yet they face a disproportionate amount of hate. In a 2022 study published in the academic journal *Socius* that surveyed over 11,000 workers of all faiths, more than 50% of Jewish respondents reported experiencing discrimination at work, which is a higher percentage than any other religious group besides Muslims. And this was before the Hamas attack on Israel on October 7th, which, as we all know, led to an explosion of antisemitism across the globe. Andrew, tell us a little bit about what ADL is doing to track these issues.

Andrew Goretsky (08:20):

So we do put out our audit of antisemitic incidents every spring. Our 2025 data will be coming out in the next couple of months. And in that, we track location, space, and others. Like gives us a snapshot of what occurs there. We've also done a couple of specific reports and specific studies, and I know we'll talk about in a little bit specifically around Jewish and Israeli Americans facing discrimination in the job market. We have a study that has demonstrated that. We did a joint study with the Jewish Federations of North America that looked at where Jewish people were experiencing antisemitism, and 9% of cases occurred in workspaces. And, we see this happening. We're also putting out reports and studies these days on large language models and AI and how antisemitism is showing up in those spaces. And as people continue to utilize and extend their use of artificial intelligence, knowing how antisemitic rhetoric is coming up in that space becomes infinitely more important as we talk about this.

Emily Schifter (09:27):

Absolutely. It's a little horrifying, frankly, to know that the AI is learning some not-so-great things as, you know, all the great things AI can do. But it certainly reflects back all of humanity, for better or for worse. So in what ways do you see discrimination against Jews manifest itself in the workplace?

Andrew Goretsky (09:45):

It manifests itself in a number of different ways. We track cases of harassment, vandalism, and assault. When we look at the workplace, it comes in different places. We see where important workplace meetings on religious holidays and scheduling on religious holidays. I myself had a healthcare fair that they were doing, and they planned it on Yom Kippur, which is the most important holiday on the Jewish calendar. And when I brought it up, the comment was, oh, sorry, we didn't know. We can do that, but then when it happened a second time a few years later, then it's... then you're getting to a different place on that as far as the level of discrimination that may be occurring because I don't get the same opportunities.

Andrew Goretsky (10:32):

We see antisemitic tropes. We talked about power tropes where people will talk about Jews have too large of a power in this company or in this organization or in the world. People will say, you don't look Jewish, or, you look Jewish. There aren't necessarily specific features. We've heard people say, you can't be Jewish. You're Black. In fact, in the United States, 15% of Jewish people identify as non-white. If you go to Israel, more than 50% of Jews descend from Jewish ancestry from Middle East and North Africa, not from Europe. And so, there's those components. You hear derogatory comments such as cheap Jew. Regularly I heard, don't Jew the price down on me, I'm trying to make certain amounts of money here. We'll hear backhanded compliments: you can always trust her with your money. I had a report in my own region where somebody had a swastika put on a post-it note and left on their desk. These are the types of things that we see and we hear.

Tracey Diamond (11:31):

It gives me the chills. So our first clip illustrates these points. It is from the TV show Inside Amy Schumer, a sketch comedy television series created and hosted by the comedian Amy Schumer. The series aired on Comedy Central from 2013 to 2016 and then was revived again in 2022 for a fifth season on Paramount+. The show received a Peabody Award and has been nominated for eight Primetime Emmy Awards, winning three of them. In this clip, Amy plays a corporate leader assisting with a workshop on workplace harassment. Let's listen in.

[BEGIN CLIP]

Bob (12:05):

All right, people, it's that time of the year again. Workplace harassment seminar. Obviously, I'm Bob, head of HR. And our lucky recruit today is the woman you all know as the head of corporate events, Amy Simmons.

Amy Simmons (12:17):

Thank you.

Bob (12:18):

Now, Amy, we're gonna run some scenarios, and everyone just interact with her as you normally would. First scenario: Amy is running a meeting.

Amy Simmons (12:25):

Yes. Okay.

Bob (12:26):

Amy.

Amy Simmons (12:26):

Okay. So our new focus going forward will be to celebrate diversity.

Carl (12:38):

What's that even say? It looks like she's writing in Hebrew.

Bob (12:43):

What would you say went wrong here? Yes.

Annie (12:46):

Amy can't spell.

Bob (12:49):

That *is* stupid. But no - Carl made fun of Amy's handwriting, making her feel uncomfortable in her work environment. Not okay.

Amy Simmons (12:57):

Yeah, and I would say that the Hebrew bit was pretty pointed.

Bob (13:01):

How so?

Amy Simmons (13:03):

I'm Jewish.

Bob (13:04):

Wow.

Bob (13:06):

You do not look it.

Amy Simmons (13:08):

What?

Bob (13:09):

No, I meant that as a compliment. Anyway, let's keep moving.

[END CLIP]

Andrew Goretsky (13:13):

This is actually a perfect example of the microaggression I was referring to earlier. This is an example of what we see.

Emily Schifter (13:19):

Words matter and so do actions. So, Andrew, can you tell us a little bit about ADL's research on the issue of failure or refusal to hire applicants with Jewish or Israeli backgrounds that you mentioned earlier?

Andrew Goretsky (13:29):

Yep. So in 2024, we actually published a white paper on this issue. In the study, we had asked the question, do Americans who signaled Jewish or Israeli backgrounds experience discrimination in the US labor market? We had sent 3,000 queries to job postings across the US using identical email text and resumes that differed only in the name of the applicant and selected to sound Jewish, Israeli, or Western European, resumes that signals of likely Jewish, Israeli, or Western European background. And, we found that Jewish American job candidates needed to send 24% more applications to receive the same number of positive first responses from prospective employers as Americans with Western European backgrounds when applying to the same role.

Andrew Goretsky (14:20):

Israeli Americans actually needed to send 39% more applications, so it was even a bit more profound there. And, when we talk about blaming entire groups of people for the actions of individuals, there are plenty of Israelis themselves who may not agree with aspects of what the Israeli government does. So even if that's where the discrimination is coming from, which we don't know necessarily in this case, we see that there's a greater level of discrimination there. On top of increasing antisemitic incidents and growing antisemitic beliefs, this landmark study really illustrates the very real need for employers, legislators, and civil rights officers to take anti-Jewish and anti-Israeli prejudice more seriously in the workplace so that the workplace works for everybody.

Tracey Diamond (15:04):

So, Andrew, I know that you're not a lawyer, we talked about that before, but what laws are in place to combat this? And Emily, why don't you chirp in here and help out Andrew?

Andrew Goretsky (15:13):

Well, and as I said when I taught higher ed law and policy, it's to make sure people know when to call the lawyer. So I need to have at least enough knowledge of the law to be able to know when I need to call an attorney. So, you know, Title VII protects against discrimination based on religion, race, and national origin. It requires employers to provide accommodations for employee religious beliefs, practices, or observances, unless to do so would be an undue hardship. And, there's more information about that and what that standard is, but it's basically talking about substantial increased cost to the business, and it raises a bar from a previous legal standard, which as a non-attorney, I won't go into here. I'll let the attorney go there.

Emily Schifter (15:59):

Exactly. It was June of 2023, the Supreme Court changed that undue hardship standard. A lot of our listeners will be familiar with undue hardship from the disability accommodation context. And in the religion context, it used to be a much lower bar of what constituted an undue hardship. It was anything that was de minimis. And in 2023, the Supreme Court changed that and made it to that substantial increased cost standard. So, in a failure to accommodate type of a claim, how that might be brought, an employee would need to show, hey, I've got a sincerely held religious belief, practice, or observance, and I need an accommodation, whether it's, I need a holiday off, or, I don't want to work on a certain day, or whatever the case might be. And so the employer just has to determine whether that is an undue hardship to them in terms of whether they're able to accommodate that, similar to the disability context. But looking at a more traditional discrimination case outside of the accommodation context, it's just like our listeners are familiar with a discrimination on the basis of gender or on the basis of age.

Emily Schifter (17:01):

An employee shows that prima facie case that they belong to a protected category, and they have to show that there was an adverse employment action taken against them due to belonging to that protected category. And what constitutes an adverse action can be all the traditional things you think about: a termination, a demotion, denial of a raise, that sort of a thing. Although in some cases, that standard is getting lower. And here in the 11th Circuit, we have some convincing mosaic type cases that don't necessarily require a you're fired, something to that extreme. It can be lots of little things. That's sort of always changing. The employer has the ability to show that there was, in fact, a legitimate, non-discriminatory business reason for the decision, at which point the burden shifts back to the employee to show that that reason is instead pretext for discrimination.

Emily Schifter (17:48):

Retaliation cases work in much the same way, except for that the employee, instead of showing that they belong to a protected category, they're showing that they engaged in some sort of protected activity, complaining about discrimination or harassment or something similar. And it follows that sort of same burden-shifting framework. And then harassment, which I think is particularly relevant given the clip that we just listened to, is anything in the workplace that an employee might experience, harassment based on their belonging to a protected class. Generally, the way that those claims work is the harassment has to be severe or pervasive. And

that's both an objective and a subjective test, although some state laws actually have a lower standard for that. So that can vary depending on where you are as well.

Tracey Diamond (18:30):

Yeah. And what makes it kind of tricky in this context is that the protected category piece of where does antisemitism sort of fit? Is it a race? Is it a religion? Is it a national origin? Is it all three? And I think that sometimes you see some cases where that question comes up and whether or not the person is in a protected category to begin with. I would posit that the fact that that's even questioned is somewhat antisemitic to begin with.

Emily Schifter (18:55):

Right, exactly.

Tracey Diamond (18:56):

One thing I want to go back to before we introduce our next clip is what we talked about before with the 2024 study about those applicants with Jewish-sounding names or Israeli-sounding names having a harder time getting their applications received and harder to find a job. I wonder whether AI is going to make that or has been making that worse. We've seen in our world lots of talk about the use of AI by employers disproportionately affecting potential employees of all sorts of different protected categories because the AI has been trained on models that are discriminatory to begin with, or there's not sufficient guardrails in place. So AI is automatically rejecting potential applicants before a human being is even seeing their resume. Do you see that factoring in here? It's really a question for both of you.

Andrew Goretsky (19:42):

I think when it comes to artificial intelligence, and as I mentioned earlier, my research background is student engagement and mobile technology, so I actually could go on for a very long time about hate in online spaces and AI. There's a metaphor I use to talk about this. All tools that as human beings we've used in time can be used for good or bad. Fire can be used to cook your food or burn down a home. AI has a lot of power to it that can do good things. We have to know how to effectively use it. We have to train it on the positive things, and we need to know where the pitfalls are.

Andrew Goretsky (20:19):

If we don't create a space to put control mechanisms in place to avoid the potential discrimination that occurs, then we're gonna run into problems. So I'm not discouraging use of AI because I personally see the power of it and utilize it regularly. But we have to know where the weaknesses and the pitfalls are, and there's possibility there. And I'd encourage people to look at the studies that are coming out from ADL, go to our website, because we do deep dives into a number of different pieces as it relates to technology and antisemitism and hate.

Emily Schifter (20:53):

I think that's exactly right. I think that's a great reminder. We've talked about this on some of our podcasts where we focus on AI of a couple of things. And the first is that just because you're using an AI tool does not mean that you are insulated from claims of discrimination. And it is important to understand how your tool works and how it's tested and is it being vetted to avoid having discrimination kinda baked into the algorithm. And also, I think it's a good reminder to employers that just because somebody is not actually your employee yet, they can still bring a claim. I think most of our listeners are pretty familiar with this, but sometimes people are surprised that failure to hire is a legitimate and valid discrimination claim. So it's definitely something to be aware of, especially as these tools kinda come out faster than we can always adapt to them and really stop and think about them.

Tracey Diamond (21:37):

And I would also add to that it's still the frontier of the legal world, but there are some laws on the books now. New York City is a good example that require annual audits and disclosure to applicants that AI is being used and an alternative means of having their resume or their application seen. So be aware of your state and local laws for sure. Okay, I think now's a good time to turn to our next clip. This one is also from the same episode of Inside Amy Schumer. As we will hear, the employees make increasingly blatant antisemitic comments during the harassment workshop.

[BEGIN CLIP]

Bob (22:09):

Annie, come on up. Could you stand up? You are about to leave the building together. It's raining outside. Annie has an umbrella. Amy does not. So, Annie, yeah, if you could pretend to have an umbrella.

Amy Simmons (22:20):

So you have an orthodox wig hat, but you don't have an umbrella?

Bob (22:24):

Action.

Annie (22:25):

Hey, Fiddler on the roof, can't you make it stop raining, you Jew bag? The Rothschilds control the weather.

Bob (22:31):

Yeah, yeah, yeah, yeah.

Amy Simmons (22:33):

This is not good.

Bob (22:34):

Annie could have offered Amy her umbrella, but a lack of courtesy is not punishable by law. Sorry, Amy. Does anyone want to freestyle a scenario? Thank you, Annie. Come on up, Sheila. Here we go.

Sheila (22:46):

Can I borrow a stapler? Jews are cheap and ugly.

Amy Simmons (22:50):

Why would you say that to me?

Sheila (22:51):

Oh, here comes the whining.

Julia (22:53):

Wait a minute. That's super antisemitic.

Amy Simmons (22:58):

Thank you... Oh. No, no, that's okay. Don't worry about it. Especially you of all people. I mean, Jews, are we a race? Are we a religion? Like, who even wants to get into it? It's nothing like what black people have to go through...

Julia (23:08):

Amy. Amy, please, it's okay.

Amy Simmons (23:09):

No, I'm so sorry. I'm sorry. I'm sorry about Israel. I've never even been there, but I just I know I'm supposed to be sorry about it. And I'm sorry that there are terrorist attacks there and that nobody wants to talk about them. I'm sorry about Bernie Madoff. I'm sorry about Bernie Sanders, Weekend at Bernie's, all the Bernies, I'm sorry- Harvey Weinstein, everybody! I'm sorry I'm Jewish....

[END CLIP]

Tracey Diamond (23:35):

Andrew, why is Amy's response here so concerning?

Andrew Goretsky (23:39):

Before I share with you my concern, let me preface my comment with the fact that this is a comedy bit and she may be trying to demonstrate these issues through a comedic lens. So that is a form of free speech, and just want to acknowledge that component. But here's the concerns as we look at it. Amy in that clip is internalizing all of the bigotry that employees are throwing at her and holding herself responsible for what individual politicians, criminals have said or done or for current events. And we've seen a huge amount of hate directed at the Jewish community and at Jewish people as a group as a whole because of the Israel-Hamas war and the aftermath of October 7th. And let's be clear, we were seeing it before October 7th too. And, I actually wrote an op-ed that was in the Philadelphia Inquirer that spoke about this regarding the Bondi Beach attack that occurred in Australia, where we can't blanket and shouldn't blanket entire communities for the actions of individuals. And so, this is one of the things that's really happened to the Jewish community in a large degree.

Emily Schifter (24:44):

So, Andrew, what can employers do to combat antisemitism?

Andrew Goretsky (24:48):

So I think there's a number of things that employers can do. First is always do a review of your policies, ensuring that they expressly prohibit antisemitism. Express a zero tolerance policy and act on it. So it's one thing to have the policy, it's another thing to actually follow up, enforce it, and train people on it. Different training and awareness. The reality of the situation is that people don't necessarily understand the antisemitic stereotypes and tropes that have existed for millennia and how they show up in modern times. And so somebody may think they're only being critical of, say, Israel or something related to Israel, but not realize that they're using an antisemitic trope. Some people are doing it intentionally, but some people may not realize.

Andrew Goretsky (25:35):

So training and awareness of what antisemitism is, how it shows up, and also Jewish culture and identity. Because as was alluded to earlier in this podcast, Jewish identity, is it a religion? Is it a peoplehood? I often share that I'm an atheist Jew. Can you be an atheist Jew? Sure, you can be. It's for me very much about a culture and identity than it necessarily is about the theology. You can have Jewish employee resource groups. It's one of the things that ADL has been promoting and heavily trying to support. Definitely grant accommodations for religious beliefs, practices, and observances.

Andrew Goretsky (26:22):

Planning a healthcare fair for the most important holiday of the year on the Jewish calendar is a problem. When antisemitic incidents hit headlines, reach out to Jewish employees and acknowledge their pain. One of the statistics, and the New York Times wrote about this in an editorial, the FBI statistics in 2024 showed that Jewish people make up 2% of the entire American population, yet made up almost 70% of hate crimes that were religiously based. Let me repeat that number again. Jews make up 2% of the population, but 70% of all hate crimes that were religiously based were targeting Jewish individuals. That is an extraordinary number that is very frightening and concerning. And so when something happens, the anxiety is real, and we need to support our Jewish community members and our Jewish staff members and employees when something does hit the headlines and occurs to make sure they know that they're being supported.

Andrew Goretsky (27:23):

And this is something I've spoken about extensively since joining ADL pre-October 7th. Making sure that your equity and belonging initiatives and programming that are ensuring all marginalized groups, including Jews, are entitled to a workplace that is free from bias and makes them feel included and safe. Oftentimes Jewish identity has been left out of those programs. I worked for 23 years in higher ed. I did student services work as well as work in equity and belonging spaces. And I talked about when I started, we need to make sure that Jewish culture, Jewish identity, and antisemitism is included. There's a variety of reasons why it hasn't been. There's no excuse for not including it now.

Tracey Diamond (28:04):

Well, Andrew, this has been a really important episode. We really thank you so much for taking the time to join us today. Thank you to our audience for listening to today's episode. And don't forget to visit our blog, [HiringToFiring.Law](#), and subscribe so you can get the latest updates. Please make sure to also subscribe to this podcast via Apple Podcasts, Google Play, Spotify, or whatever platform you use. And also don't forget to check out our firm's other podcasts on troutman.com/podcasts. We look forward to next time.

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