

115TH CONGRESS
2D SESSION

H. R. 5924

To provide for the consideration of a definition of anti-Semitism for the enforcement of Federal antidiscrimination laws concerning education programs or activities.

IN THE HOUSE OF REPRESENTATIVES

MAY 23, 2018

Mr. ROSKAM (for himself, Mr. DEUTCH, Mr. COLLINS of Georgia, Mr. NADLER, Mrs. McMORRIS RODGERS, Ms. ROS-LEHTINEN, Ms. GRANGER, Mrs. LOWEY, Mr. SHERMAN, Mr. VEASEY, Mr. BUCK, and Mr. ENGEL) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the consideration of a definition of anti-Semitism for the enforcement of Federal antidiscrimination laws concerning education programs or activities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Anti-Semitism Aware-
5 ness Act of 2018”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) Title VI of the Civil Rights Act of 1964 (re-
4 ferred to in the section as “title VI”) is one of the
5 principal antidiscrimination statutes enforced by the
6 Department of Education’s Office for Civil Rights.

7 (2) Title VI prohibits discrimination on the
8 basis of race, color, or national origin.

9 (3) Both the Department of Justice and the
10 Department of Education have properly concluded
11 that title VI prohibits discrimination against Jews,
12 Muslims, Sikhs, and members of other religious
13 groups when the discrimination is based on the
14 group’s actual or perceived shared ancestry or ethnic
15 characteristics or when the discrimination is based
16 on actual or perceived citizenship or residence in a
17 country whose residents share a dominant religion or
18 a distinct religious identity.

19 (4) A September 8, 2010, letter from Assistant
20 Attorney General Thomas E. Perez to Assistant Sec-
21 retary for Civil Rights Russlynn H. Ali stated that
22 “[a]lthough Title VI does not prohibit discrimination
23 on the basis of religion, discrimination against Jews,
24 Muslims, Sikhs, and members of other groups vio-
25 lates Title VI when that discrimination is based on

1 the group’s actual or perceived shared ancestry or
2 ethnic characteristics”.

3 (5) To assist State and local educational agen-
4 cies and schools in their efforts to comply with Fed-
5 eral law, the Department of Education periodically
6 issues Dear Colleague letters. On a number of occa-
7 sions, these letters set forth the Department of Edu-
8 cation’s interpretation of the statutory and regu-
9 latory obligations of schools under title VI.

10 (6) On September 13, 2004, the Department of
11 Education issued a Dear Colleague letter regarding
12 the obligations of schools (including colleges) under
13 title VI to address incidents involving religious dis-
14 crimination. The 2004 letter specifically notes that
15 “since the attacks of September 11, 2001, OCR has
16 received complaints of race or national origin harass-
17 ment commingled with aspects of religious discrimi-
18 nation against Arab Muslim, Sikh, and Jewish stu-
19 dents.”.

20 (7) An October 26, 2010, Dear Colleague letter
21 issued by the Department of Education stated,
22 “While Title VI does not cover discrimination based
23 solely on religion, groups that face discrimination on
24 the basis of actual or perceived shared ancestry or
25 ethnic characteristics may not be denied protection

1 under Title VI on the ground that they also share
2 a common faith. These principles apply not just to
3 Jewish students, but also to students from any dis-
4 crete religious group that shares, or is perceived to
5 share, ancestry or ethnic characteristics (e.g., Mus-
6 lims or Sikhs).”.

7 (8) Anti-Semitism, and harassment on the basis
8 of actual or perceived shared ancestry or ethnic
9 characteristics with a religious group, remains a per-
10 sistent, disturbing problem in elementary and sec-
11 ondary schools and on college campuses.

12 (9) Students from a range of diverse back-
13 grounds, including Jewish, Arab Muslim, and Sikh
14 students, are being threatened, harassed, or intimi-
15 dated in their schools (including on their campuses)
16 on the basis of their shared ancestry or ethnic char-
17 acteristics including through harassing conduct that
18 creates a hostile environment so severe, pervasive, or
19 persistent so as to interfere with or limit some stu-
20 dents’ ability to participate in or benefit from the
21 services, activities, or opportunities offered by
22 schools.

23 (10) The 2010 Dear Colleague letter cautioned
24 schools that they “must take prompt and effective
25 steps reasonably calculated to end the harassment,

1 eliminate any hostile environment, and its effects,
2 and prevent the harassment from recurring,” but
3 did not provide guidance on current manifestations
4 of anti-Semitism, including discriminatory anti-Se-
5 mitic conduct that is couched as anti-Israel or anti-
6 Zionist.

7 (11) The definition and examples referred to in
8 paragraphs (1) and (2) of section 3 have been valu-
9 able tools to help identify contemporary manifesta-
10 tions of anti-Semitism, and include useful examples
11 of discriminatory anti-Israel conduct that crosses the
12 line into anti-Semitism.

13 (12) Awareness of this definition of anti-Semi-
14 tism will increase understanding of the parameters
15 of contemporary anti-Jewish conduct and will assist
16 the Department of Education in determining wheth-
17 er an investigation of anti-Semitism under title VI
18 is warranted.

19 **SEC. 3. DEFINITIONS.**

20 For purposes of this Act, the term “definition of anti-
21 Semitism”—

22 (1) includes the definition of anti-Semitism set
23 forth by the Special Envoy to Monitor and Combat
24 Anti-Semitism of the Department of State in the
25 Fact Sheet issued on June 8, 2010; and

1 cation, entitled “Title VI and Title IX Religious Discrimi-
2 nation in Schools and Colleges”.

3 **SEC. 6. OTHER RULES OF CONSTRUCTION.**

4 (a) GENERAL RULE OF CONSTRUCTION.—Nothing in
5 this Act shall be construed—

6 (1) to expand the authority of the Secretary of
7 Education;

8 (2) to alter the standards pursuant to which the
9 Department of Education makes a determination
10 that harassing conduct amounts to actionable dis-
11 crimination; or

12 (3) to diminish or infringe upon the rights pro-
13 tected under any other provision of law that is in ef-
14 fect as of the date of enactment of this Act.

15 (b) CONSTITUTIONAL PROTECTIONS.—Nothing in
16 this Act shall be construed to diminish or infringe upon
17 any right protected under the First Amendment to the
18 Constitution of the United States.

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