

.....
(Original Signature of Member)

114TH CONGRESS
2D SESSION

H. R. _____

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

Mr. ROSKAM (for himself and Mr. DEUTCH) introduced the following bill; which was referred to the Committee on _____

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 2016”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

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

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

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

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

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

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

18 (7) An October 26, 2010 Dear Colleague letter
19 issued by the Department of Education stated,
20 “While Title VI does not cover discrimination based
21 solely on religion, groups that face discrimination on
22 the basis of actual or perceived shared ancestry or
23 ethnic characteristics may not be denied protection
24 under Title VI on the ground that they also share
25 a common faith. These principles apply not just to

1 Jewish students, but also to students from any discrete religious group that shares, or is perceived to share, ancestry or ethnic characteristics (e.g., Muslims or Sikhs).”.

5 (8) Anti-Semitism remains a persistent, disturbing problem in elementary and secondary schools and on college campuses.

8 (9) Jewish students are being threatened, harassed, or intimidated in their schools (including on their campuses) on the basis of their shared ancestry or ethnic characteristics including through harassing conduct that creates a hostile environment so severe, pervasive, or persistent so as to interfere with or limit some students’ ability to participate in or benefit from the services, activities, or opportunities offered by schools.

17 (10) The 2010 Dear Colleague letter cautioned schools that they “must take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment, and its effects, and prevent the harassment from recurring,” but did not provide guidance on current manifestation of anti-Semitism, including discriminatory anti-Semitic conduct that is couched as anti-Israel or anti-Zionist.

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

7 (12) Awareness of this definition of anti-Semi-
8 tism will increase understanding of the parameters
9 of contemporary anti-Jewish conduct and will assist
10 the Department of Education in determining wheth-
11 er an investigation of anti-Semitism under title VI
12 is warranted.

13 **SEC. 3. DEFINITIONS.**

14 For purposes of this Act, the term “definition of anti-
15 Semitism”—

16 (1) includes the definition of anti-Semitism set
17 forth by the Special Envoy to Monitor and Combat
18 Anti-Semitism of the Department of State in the
19 Fact Sheet issued on June 8, 2010, as adapted from
20 the Working Definition of Anti-Semitism of the Eu-
21 ropean Monitoring Center on Racism and Xeno-
22 phobia (now known as the European Union Agency
23 for Fundamental Rights); and

24 (2) includes the examples set forth under the
25 headings “Contemporary Examples of Anti-Semi-

1 tism” and “What is Anti-Semitism Relative to
2 Israel?” of the Fact Sheet.

3 **SEC. 4. RULE OF CONSTRUCTION FOR TITLE VI OF THE**
4 **CIVIL RIGHTS ACT OF 1964.**

5 In reviewing, investigating, or deciding whether there
6 has been a violation of title VI of the Civil Rights Act
7 of 1964 (42 U.S.C. 2000d et seq.) on the basis of race,
8 color, or national origin, based on an individual’s actual
9 or perceived shared Jewish ancestry or Jewish ethnic char-
10 acteristics, the Department of Education shall take into
11 consideration the definition of anti-Semitism as part of the
12 Department’s assessment of whether the alleged practice
13 was motivated by anti-Semitic intent.

14 **SEC. 5. CONSTITUTIONAL PROTECTIONS.**

15 Nothing in this Act, or an amendment made by this
16 Act, shall be construed to diminish or infringe upon any
17 right protected under the First Amendment to the Con-
18 stitution of the United States.