

114TH CONGRESS
2D SESSION

S. 10

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Anti-Semitism Aware-
3 ness Act of 2016”.

4 **SEC. 2. FINDINGS.**

5 Congress makes the following findings:

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

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

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

22 (4) A September 8, 2010 letter from Assistant
23 Attorney General Thomas E. Perez to Assistant Sec-
24 retary for Civil Rights Russlynn H. Ali stated that
25 “[a]lthough Title VI does not prohibit discrimination
26 on the basis of religion, discrimination against Jews,

1 Muslims, Sikhs, and members of other groups vio-
2 lates Title VI when that discrimination is based on
3 the group's actual or perceived shared ancestry or
4 ethnic characteristics”.

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

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

22 (7) An October 26, 2010 Dear Colleague letter
23 issued by the Department of Education stated,
24 “While Title VI does not cover discrimination based
25 solely on religion, groups that face discrimination on

1 the basis of actual or perceived shared ancestry or
2 ethnic characteristics may not be denied protection
3 under Title VI on the ground that they also share
4 a common faith. These principles apply not just to
5 Jewish students, but also to students from any discrete
6 religious group that shares, or is perceived to
7 share, ancestry or ethnic characteristics (e.g., Muslims
8 or Sikhs).”.

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

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

21 (10) The 2010 Dear Colleague letter cautioned
22 schools that they “must take prompt and effective
23 steps reasonably calculated to end the harassment,
24 eliminate any hostile environment, and its effects,
25 and prevent the harassment from recurring,” but

1 did not provide guidance on current manifestation of
2 anti-Semitism, including discriminatory anti-Semitic
3 conduct that is couched as anti-Israel or anti-Zion-
4 ist.

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

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

17 **SEC. 3. DEFINITIONS.**

18 For purposes of this Act, the term “definition of anti-
19 Semitism”—

20 (1) includes the definition of anti-Semitism set
21 forth by the Special Envoy to Monitor and Combat
22 Anti-Semitism of the Department of State in the
23 Fact Sheet issued on June 8, 2010, as adapted from
24 the Working Definition of Anti-Semitism of the Eu-
25 ropean Monitoring Center on Racism and Xeno-

1 phobia (now known as the European Union Agency
2 for Fundamental Rights); and

3 (2) includes the examples set forth under the
4 headings “Contemporary Examples of Anti-Semi-
5 tism” and “What is Anti-Semitism Relative to
6 Israel?” of the Fact Sheet.

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

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

18 **SEC. 5. CONSTITUTIONAL PROTECTIONS.**

19 Nothing in this Act, or an amendment made by this
20 Act, shall be construed to diminish or infringe upon any

- 1 right protected under the First Amendment to the Con-
- 2 stitution of the United States.

Passed the Senate December 1, 2016.

Attest:

Secretary.

114TH CONGRESS
2^D SESSION

S. 10

AN ACT

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