

116TH CONGRESS
1ST SESSION

H. R. 4009

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

JULY 25, 2019

Mr. COLLINS of Georgia (for himself, Mr. BARR, Mrs. RODGERS of Washington, Mr. BUCK, Mr. GAETZ, Mr. STEUBE, Mr. RATCLIFFE, Mr. CHABOT, and Mr. ZELDIN) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Education and Labor, 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 2019”.

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, and harassment on the basis of actual or perceived shared ancestry or ethnic characteristics with a religious group, remains a persistent, disturbing problem in elementary and secondary schools and on college campuses.

10 (9) Students from a range of diverse backgrounds, including Jewish, Arab Muslim, and Sikh 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.

21 (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

1 did not provide guidance on current manifestations
2 of anti-Semitism, including discriminatory anti-Se-
3 mitic conduct that is couched as anti-Israel or anti-
4 Zionist.

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
21 adopted on May 26, 2016, by the International Hol-
22 ocaust Remembrance Alliance (referred to in this
23 section as “IHRA”), of which the United States is
24 a member, which definition has been adopted by the
25 Department of State; and

1 (2) includes the “[c]ontemporary examples of
2 antisemitism” identified in the IHRA definition.

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 practice was mo-
13 tivated by anti-Semitic intent.

14 **SEC. 5. ADMINISTRATION.**

15 The Assistant Secretary for Civil Rights shall admin-
16 ister and enforce title VI of the Civil Rights Act of 1964
17 (42 U.S.C. 2000d et seq.) and title IX of the Education
18 Amendments of 1972 (20 U.S.C. 1681 et seq.) in a man-
19 ner that is consistent with the manner of administration
20 and enforcement described in the Dear Colleague letter
21 issued on September 13, 2004, by the Deputy Assistant
22 Secretary for Enforcement of the Department of Edu-
23 cation, entitled “Title VI and Title IX Religious Discrimi-
24 nation in Schools and Colleges”.

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

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

4 (1) to expand the authority of the Secretary of
5 Education;

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

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

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

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