

114TH CONGRESS  
2D SESSION

# H. R. 6421

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

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 1, 2016

Mr. ROSKAM (for himself, Mr. DEUTCH, Mrs. LOWEY, Ms. ROS-LEHTINEN, Mr. ENGEL, and Mr. ISRAEL) introduced the following bill; which was referred to the Committee on the Judiciary

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## 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:

8 (1) Title VI of the Civil Rights Act of 1964 (re-  
9 ferred to in the section as “title VI”) is one of the

1 principal antidiscrimination statutes enforced by the  
2 Department of Education’s Office for Civil Rights.

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

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

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

24 (5) To assist State and local educational agen-  
25 cies and schools in their efforts to comply with Fed-

1       eral law, the Department of Education periodically  
2       issues Dear Colleague letters. On a number of occa-  
3       sions, these letters set forth the Department of Edu-  
4       cation’s interpretation of the statutory and regu-  
5       latory obligations of schools under title VI.

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

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

1 share, ancestry or ethnic characteristics (e.g., Mus-  
2 lims or Sikhs).”.

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

6 (9) Jewish students are being threatened, har-  
7 assed, or intimidated in their schools (including on  
8 their campuses) on the basis of their shared ancestry  
9 or ethnic characteristics including through harassing  
10 conduct that creates a hostile environment so severe,  
11 pervasive, or persistent so as to interfere with or  
12 limit some students’ ability to participate in or ben-  
13 efit from the services, activities, or opportunities of-  
14 fered by schools.

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

24 (11) The definition and examples referred to in  
25 paragraphs (1) and (2) of section 3 have been valu-

1       able tools to help identify contemporary manifesta-  
2       tions of anti-Semitism, and include useful examples  
3       of discriminatory anti-Israel conduct that crosses the  
4       line into anti-Semitism.

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

11 **SEC. 3. DEFINITIONS.**

12       For purposes of this Act, the term “definition of anti-  
13       Semitism”—

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

22               (2) includes the examples set forth under the  
23       headings “Contemporary Examples of Anti-Semi-  
24       tism” and “What is Anti-Semitism Relative to  
25       Israel?” of the Fact Sheet.

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

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

12 **SEC. 5. CONSTITUTIONAL PROTECTIONS.**

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

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