



The Louis D. Brandeis Center for Human Rights Under Law is an independent, unaffiliated, nonprofit corporation established to advance the civil and human rights of the Jewish people and promote justice for all.

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## Brandeis Center Commends Biden For Decision to Embrace Once-Considered Controversial ‘Marcus Doctrine’ to Combat Anti-Semitism

Washington, D.C. (September 28, 2023): [Kenneth L. Marcus](#), founder and chairman of the [Louis D. Brandeis Center for Human Rights Under Law](#), issued the following statement today in response to the Biden Administration’s declaration that eight federal agencies will utilize Title VI of the Civil Rights Act of 1964 to combat anti-Semitism, as Marcus first recommended in 2004 as head of President Bush’s U.S. Department of Education Office for Civil Rights:

*“We are elated by this morning’s Biden White House announcement that eight federal agencies would acknowledge that Title VI of the Civil Rights Act of 1964 protects Jewish Americans, as well as other ethno-religious groups, from certain ethnic or ancestral discrimination. Coupled with Ambassador Lipstadt’s new State Department [report](#), issued in the same week, which recognizes the central role of the IHRA Working Definition in efforts to combat anti-Semitism, this is a major victory well worth celebrating. Nevertheless, it is only a partial victory, even if it is deeply satisfying.*”

*“With today’s announcement, virtually the entire federal government is now on board with the policy the Office for Civil Rights announced in 2004, but there’s a problem. The fact is that it’s one thing for the government to commit to addressing anti-Semitism and another for it to identify anti-Semitism properly. That is why it has always been critical that this policy be coupled with a proper, uniform definition of anti-Semitism. In our times, that definition is the IHRA Working Definition.*”

*“The Executive Order on Combating Anti-Semitism wisely provided explicitly for IHRA’s use, subsequent Education Department guidance has also done so, and the Biden State Department has just reiterated its commitment to IHRA in Ambassador Lipstadt’s new report. It is crucial that the domestic agencies do so as well.”*

Nearly twenty years ago, as U.S. Assistant Secretary of Education under the Bush Administration, Marcus first [established](#) as Education Department policy that Title VI protects Jews and other groups from ethnic and ancestral discrimination. This policy is sometimes described as the Marcus Doctrine or Marcus Policy. It is important because Title VI, which applies to federally funded programs, does not prohibit religious discrimination. That is why it was critical to establish that anti-Semitism is not merely religious but also related to the peoplehood or shared ancestry of the Jewish people.

This was initially a controversial approach and faced significant pushback over the years, as detailed in Marcus’ first book, [Jewish Identity and Civil Rights in America](#) – a book written solely to protect this doctrine in the face of opposition. The bi-partisan U.S. Commission on Civil Rights [affirmed](#) the correctness of the doctrine in 2006 and in 2010, the Obama Justice and Education Departments also [affirmed](#) the policy, but it remained a matter of informal guidance. In 2019, President Donald Trump [incorporated](#) this approach into the Executive Order on Combating Anti-Semitism, however, the policy was widely misunderstood by some who thought, incorrectly, that it implied Jews are a race. The Biden Administration today affirmed that Jews share a peoplehood, as well as a common religion, are often targeted based on spurious racial prejudices, and therefore deserve protection under Title VI of the Civil Rights Act of 1964.

Marcus served as U.S. Assistant Secretary of Education for both the Bush and Trump Administrations.