

Congressional Taskforce Urges Federal Guidance on Anti-Semitism

April 21, 2016

Washington, D.C.: Yesterday, the Bipartisan Taskforce for Combating Anti-Semitism in the House of Representatives announced the issuance of an important letter from 38 Members of Congress to Secretary of Education John King, Jr. calling for the Department to “identify and distinguish when speech and activity that are critical of Israeli policies become anti-Semitic harassment and intimidation.” Coming on the heels of recent highly publicized incidents at the City University of New York, Stanford University, Oberlin College, Vassar College, and elsewhere, this watershed correspondence, contained within a letter dated April 15, demonstrates keen congressional attention to the federal government’s oft-criticized record in addressing campus anti-Semitism.

The Taskforce made critical recommendations regarding the need for policy clarification, stating “The Department’s policies must continually evolve to meet the changing manifestation of certain biases to avoid new elements of prejudice. For example, anti-Semitic intimidation, harassment, and discrimination are manifested not only in easily recognizable anti-Semitic slurs but also in anti-Semitism masked as anti-Israel and anti-Zionist sentiment.” The Taskforce urged the Department to uphold its “responsibility for ensuring that all students, regardless of actual or perceived ancestry or ethnic identity, are guaranteed a campus experience free of violence, intimidation, or harassment.”

LDB president Kenneth L. Marcus commented, “Kudos to the Taskforce for issuing this hugely important message to the Education Department. This is a clear signal that Congress is paying close attention to the Office for Civil Rights’ work on campus anti-Semitism and expects far more clarity than we have seen to date. In the past, the Taskforce was focused primarily on foreign affairs, so this letter marks a much-needed turn inward. It is not enough for our federal government to lecture foreign countries about their shabby handling of anti-Semitism complaints. We need to keep our own house in order too – and there is much urgent work for the Education Department to do.”

The Taskforce requested details on how the Department of Education’s Office for Civil Rights (OCR) is responding to anti-Semitism on college campuses, focusing on OCR’s investigation of specific complaints and its efforts to prevent the spread of anti-Semitism. Their questions included: “How many cases of anti-Semitism on campuses is OCR currently investigating? What instruction has been given to the OCR regional offices to learn how to detect cases of anti-Semitic bias and implement these protections on college campuses? Does the Department track cases of ancestral or ethnic bias against members of groups that share a common faith (e.g., Jewish, Muslim, Sikh) on college campuses? Has the Department provided policy guidance concerning anti-Semitism on campuses and examples of when actions and discourse nominally about Israeli policies devolve into hostile environments for some students and are supported, permitted, disregarded, or insufficiently addressed by school employees? Is the Department providing technical assistance and public education on these issues? Does the Department engage frequently with stakeholders that focus on these issues?”

The Taskforce explicitly recognized that responding to campus anti-Semitism is especially important now because of increasing anti-Israel sentiment on campus, including “reports of over 500 anti-Israel programs on U.S. college campuses during the 2014-2015 academic year, an increase of 38% from the prior academic year, as well as 29 Boycott, Divestment, and Sanctions (BDS) movement campaigns sponsored by student groups, an increase of 21%.” The Taskforce directed Secretary King’s attention to the finding in the FBI’s Hate Crime Statistics Act report that “while the number of incidents, offenses, and victims of anti-Jewish bias has decreased country-wide since 2010, they still make up a majority of all hate crimes motivated by religious bias.”

A 2014 report by [LDB and Trinity College](#) found that 54% of Jewish students have experienced or witnessed anti-Semitism on their college campuses during the last academic year. Marcus explained, “These statistics demonstrate that the Department of Education must do more to help stop the spread of campus anti-Semitism. Recognizing an official definition of anti-Semitism which clarifies when anti-Israelism and anti-Zionism cross the line into anti-Semitism, such as the U.S. State Department definition, would assist OCR in determining whether Title VI has been violated under the 2004 policy.”

The [Taskforce](#), launched last year in response to rising global anti-Semitism, is co-chaired by four chairs from each of the two political parties. Kenneth Marcus commented, “We especially want to commend the leadership of the Task Force’s co-chairs: Reps. Nita Lowey (D-NY), Chris Smith (R-NJ), Eliot Engel (D-NY), Ileana Ros-Lehtinen (R-FL), Steve Israel (D-NY), Kay Granger (R-TX), Ted Deutch (D-FL), and Peter Roskam (R-IL).” The Taskforce has already spearheaded several initiatives to respond to anti-Semitism at the global level, and this letter marks an important step for the Taskforce to address the issue at the national level. The Taskforce engaged with the national concern of anti-Semitism by holding a [briefing](#) last fall to assess the state of anti-Semitism on US college campuses, in which LDB was honored to participate.

At the briefing, LDB president Kenneth L. Marcus provided the Taskforce with specific public policy recommendations on how Congress and the Executive Branch can best address the resurgence of campus anti-Semitism, and founding president of LDB’s Cardozo Law chapter Melanie Goldberg spoke about her own experiences with anti-Semitism as an undergraduate at Brooklyn College.

The Taskforce letter drew attention to OCR’s [2004 policy statement](#) to include discrimination against Jewish students under Title VI of the Civil Rights Act of 1964, which clarifies that OCR will “interpret Title VI to include instances where students are targeted because of their actual or perceived shared ancestry or ethnic characteristics, regardless of whether they are members of a faith community, as in the case of Jewish, Sikh, and Muslim students,” and expressed the Taskforce’s appreciation for the Department’s reaffirmation of this policy in 2010 and 2015. However, as OCR has not found any violations of this policy to date, the Taskforce requested information including the number of campus anti-Semitism cases OCR is currently investigating, as well as OCR’s guidance and education efforts in identifying and protecting against campus anti-Semitism. According to Marcus, “The 2004 policy is important because it clarifies that anti-Semitism falls under Title VI and that it should be taken just as seriously as other forms of

discrimination. At the same time, it is concerning that, despite the prevalence of campus anti-Semitism, OCR has not yet found any violations of this policy. We appreciate the Taskforce's initiative in calling attention to this issue and raising the question of how OCR is implementing its existing policy."

The full text of the letter can be found below:

April 15, 2016

The Honorable Dr. John King, Jr.
Secretary of Education
U.S. Department of Education
400 Maryland Ave, SW
Washington, D.C. 20202

Dear Mr. Secretary,

Following your recent confirmation as Secretary of Education, we look forward to a constructive relationship with you and the Department.

As Members of the Bipartisan Taskforce for Combating Anti-Semitism, we are committed to rooting out the hatred which underlies anti-Semitism and promoting tolerance and peaceful coexistence in the United States and around the world. One of our top domestic priorities is addressing biased programs on college campuses and ensuring academic integrity and campus life for all American students.

Like you, we believe that no student should ever face discrimination and intimidation, and that the United States government must continually work to ensure that students' rights are never infringed, particularly their freedom of speech, assembly, and religion. As you stated in your Dear Colleague circulated to education leaders on December 31, 2015, "classroom discussions and other school activities should be structured to help students grapple with current events and conflicting viewpoints in constructive ways, and not in ways that result in the targeting of particular students for harassment or blame."

The Department's policies must continually evolve to meet the changing manifestation of certain biases to avoid new elements of prejudice. For example, anti-Semitic intimidation, harassment, and discrimination are manifested not only in easily recognizable anti-Semitic slurs but also in anti-Semitism masked as anti-Israel and anti-Zionist sentiment.

As you know, while Title VI of the Civil Rights Act of 1964 does not specifically cover religious-based discrimination, in 2004 the Department of Education Office for Civil Rights (OCR) Dear Colleague announced that OCR will interpret Title VI to include instances where students are targeted because of their actual or perceived shared ancestry or ethnic characteristics, regardless of whether they are members of a faith community, as in the case of Jewish, Sikh, and Muslim students. We appreciate your ongoing reference to the 2004 guidance and its reaffirmation as Department policy in the Dear Colleagues circulated in 2010 and 2015.

Nonetheless, we are particularly concerned by reports of over 500 anti-Israel programs on U.S. college campuses during the 2014-2015 academic year, an increase of 38% from the prior academic year, as well as 29 Boycott, Divestment, and Sanctions (BDS) movement campaigns sponsored by student groups, an increase of 21%. In light of these increases, we believe the Department should be prepared to identify and distinguish when speech and activity that are critical of Israeli policies become anti-Semitic harassment and intimidation.

We also hope you share our view that any campus activity that threatens, harasses, or intimidates Jewish students should not be overlooked simply because it is presented as “anti-Israel” or “anti-Zionist.” This fits with the statement in the 2015 guidance that higher education institutions should “anticipate the potential challenges that may be faced by students who are especially at risk of harassment.”

The Department of Education has the responsibility for ensuring that all students, regardless of actual or perceived ancestry or ethnic identity, are guaranteed a campus experience free of violence, intimidation, or harassment. With this in mind, we would like to better understand how the Department is implementing its anti-discrimination policy and training staff in its OCR regional enforcement offices to apply these protections on college campuses.

How many cases of anti-Semitism on campuses is OCR currently investigating? What instruction has been given to the OCR regional offices to learn how to detect cases of anti-Semitic bias and implement these protections on college campuses? Does the Department track cases of ancestral or ethnic bias against members of groups that share a common faith (e.g., Jewish, Muslim, Sikh) on college campuses? Has the Department provided policy guidance concerning anti-Semitism on campuses and examples of when actions and discourse nominally about Israeli policies devolve into hostile environments for some students and are supported, permitted, disregarded, or insufficiently addressed by school employees? Is the Department providing technical assistance and public education on these issues? Does the Department engage frequently with stakeholders that focus on these issues?

According to FBI’s Hate Crime Statistics Act report, while the number of incidents, offenses, and victims of anti-Jewish bias has decreased country-wide since 2010, they still make up a majority of all hate crimes motivated by religious bias. Addressing biases while students are in an educational environment remains critical to our ability to combat future trends of discrimination across our country. We stand ready to work with you to ensure a tolerant campus environment for everyone.

We look forward to your response.

Nita M. Lowey
Christopher H. Smith
Eliot L. Engel
Ileana Ros-Lehtinen
Steve Israel
Kay Granger

Theodore E. Deutch
Peter Roskam
Jerrold Nadler
Peter King
Brad Sherman
Jan Schakowsky
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About The Louis D. Brandeis Center:

The Louis D. Brandeis Center, Inc., or LDB, is an independent, nonprofit organization established to advance the civil and human rights of the Jewish people and promote justice for all. The Brandeis Center conducts research, education, and advocacy to combat the resurgence of anti-Semitism on college and university campuses. It is not affiliated with the Massachusetts University, the Kentucky law school, or any of the other institutions that share the name and honor the memory of the late U.S. Supreme Court justice. For more information, contact us at acrowell@brandeiscenter.com, or find us at www.brandeiscenter.com.