



The Louis D. Brandeis Center's Short Guide to the Law Against Campus Anti-Semitism

A Title VI Fact Sheet

The Louis D. Brandeis Center for Human Rights Under Law

In recent years, there has been a resurgence of anti-Semitism on university campuses. As a result, some Jewish and Israeli college students are experiencing a hostile environment perpetrated by fellow students or by faculty. It is imperative to change the culture on campuses so that anti-Semitism is taken as seriously as other forms of hate and discrimination while also maintaining academic freedom and free speech. Under Title VI of the Civil Rights Act of 1964, students are protected from discrimination based on their race, color, or national origin at federally funded post-secondary educational institutions. Since 2004, this protection has been extended to Jewish students.

What is Title VI?

Title VI of the Civil Rights Act of 1964 prohibits discrimination in federally assisted programs and activities, including nearly all public and private colleges and universities, on the basis of race, color, or national origin. When discrimination occurs, the university must promptly and adequately respond. A violation of Title VI may be found if discrimination is encouraged, tolerated, not adequately addressed, or ignored by administration. If a university violates Title VI, complaints may be filed in the U.S. Department of Education's Office for Civil Rights or in the federal district courts. The Louis D. Brandeis Center for Human Rights Under Law, an independent civil rights organization established to fight campus anti-Semitism, works with students who have suffered anti-Jewish or anti-Israeli harassment in violation of Title VI.

How does Title VI protect Jewish students?

Under the Marcus Policy initiated in 2004, Jewish students are now protected under Title VI. Although Title VI does not use the word "religion," Jewish students are protected from discrimination based on their ethnic or ancestral background.

This is because Jewish students are targeted not only based on their actual religious practices or on tenets of the Jewish religion, but also for their perceived ethnic, racial, or ancestral identity.

How Do I Know if an Incident is Anti-Semitic?

The leading international definition of anti-Semitism is the Working Definition developed by the International Holocaust Remembrance Alliance ("IHRA"). That definition centralized work previously done by the U.S. State Department and European Union Monitoring Commission on Racism and Xenophobia, among others. The IHRA Definition states:

"Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities."

IHRA sets forth examples of anti-Semitism in several categories, including:

- Demonization, for instance by calling for, aiding, or justifying the killing of Jews; using symbols associated with classic anti-Semitism like blood libels to characterize Jews, Israel, or Israelis; engaging in classic stereotypes about Jewish power and/or control; and
- Delegitimizing the state of Israel and in doing so denying the Jewish people their equal right to self-determination;
- Imposing double standards to condemn behavior by Jews or Israelis that is not condemned in others;
- Holocaust denial, such as accusing Jews or Israel of inventing or exaggerating the Holocaust;



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- Accusations of dual loyalty, such as accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations; and
- Holding Jews collectively responsible for the behavior of other Jews, Israel, or even non-Jews.

The IHRA definition has been adopted by **hundreds of organizations around the world**. The U.S. government **has directed** that in enforcing Title VI against allegedly anti-Semitic incidents, federal agencies "shall consider" the IHRA Definition and the examples which accompany it. The U.S. Department of Education's Office for Civil Rights has reinforced the status of the Executive Order on Combatting Anti-Semitism as **legal guidance** for American educational institutions in determining whether they are in compliance with federal law.

The IHRA definition's broad support is further reinforced by the fact that it is the primary consensus definition in the Jewish community, reflecting their lived experiences of anti-Semitism.

If you have identified practices which may be anti-Semitic, we recommend that you **contact Brandeis Center lawyers**. It is important, however, to remember that legitimate criticism of the State of Israel, or its policies and practices, does not violate Title VI and should not be considered anti-Semitism.

What if someone is just speaking and no physical activity occurs?

Under **federal guidance**, harassment may include verbal acts, name-calling, graphic and written statements, use of cell phones or internet, and other conduct that may be physically threatening, harmful, or humiliating. Harassment does NOT have to include intent to harm, be directed at a specific target, or involve repeated incidents. However, harassment creates a hostile environment

only when the offending conduct is sufficiently severe, persistent or pervasive to interfere with, limit or deprive a student of the ability to participate in or benefit from services, activities, or opportunities offered by a school. Many forms of offensive speech, including hate speech, are **protected by the First Amendment** to the U.S. Constitution. In addition, some forms of academic speech are protected by the doctrine of academic freedom. The Brandeis Center is committed to the full protection of students' civil rights and their freedom of speech. Please **contact Brandeis Center lawyers** if you have questions about this.

What if the University Tries to Retaliate?

A university may not retaliate against any person because he or she opposed an unlawful educational practice, or policy, or made charges, testified, or participated in any complaint action under Title VI. The university is prohibited from retaliating against a student, parent, teacher, coach, or other individual that complains formally or informally in an OCR investigation or proceeding. Retaliation may include intimidating, threatening, coercing, or in any way discriminating against the individual. Furthermore, student-on-student retaliation is also prohibited. That is to say, students are also protected against universities that permit other students to retaliate against them for filing civil rights complaints.

What can I do?

If you are aware of anti-Semitic incidents on any college or university in the United States or just have questions, please **contact Brandeis Center lawyers**, who are specifically focused on combating anti-Semitism on American college and university campuses. The information contained in this fact sheet should not be considered legal advice.



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About the Brandeis Center

The Louis D. Brandeis Center, Inc., (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.