



# 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

Over the past decade, there has been a resurgence of anti-Semitism on university campuses. While it is important to keep this in **perspective**, 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?

Anti-Semitic incidents often occur under the guise of anti-Israel sentiment, which can make it hard to identify. Some of these circumstances are described by the **United States Department of State** and include the following:

- Demonizing Israel with symbols and images associated with classic anti-Semitism, comparing Israeli policy to that of the Nazis, and blaming Israel for all inter-religious or political tension.
- Holding Israel to a standard of behavior not expected of any other nation.
- Delegitimizing Israel, denying the Jewish people their right to self-determination, rejecting Israel's right to exist.

In addition, the **U.S. Commission on Civil Rights** and the **U.S. Department of State** have adopted the **(EUMC) International Working Definition of Anti-Semitism**, which provides these additional examples:

- Calling for the killing or harming of Jews in the name of radical ideology or an extremist view of religion
- Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust
- 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



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- Making stereotypical allegations about Jews and the power of Jews as collective such as the myth about a world Jewish conspiracy
- Using symbols and images associated with classic anti-Semitism to characterize Israel or Israelis, such as claims of Jews killing Jesus or blood libel

When these practices are identified, 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 **recent 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 or pervasive to interfere with or limit a student's 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 now have additional protections 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.

### 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.