



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.

**Brandeis Center
May 8, 2024
Source Sheet**

Title VI of the Civil Rights Act of 1964

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Department of Education – September 2004 Dear Colleague Letter

<https://www2.ed.gov/about/offices/list/ocr/religious-rights2004.html>

“Groups that face discrimination on the basis of shared ethnic characteristics may not be denied the protection of our civil rights laws on the ground that they also share a common faith.”

Shaare Tefila Congregation v. Cobb (481 US 615 (1987))

<https://supreme.justia.com/cases/federal/us/481/615/>

US Supreme Court held that the civil rights law was “intended to protect from discrimination identifiable classes of persons who are subjected to intentional discrimination solely because of their ancestry or ethnic characteristics.”

Department of Justice September 2010 Dear Colleague Letter

https://www.justice.gov/sites/default/files/crt/legacy/2011/05/04/090810_AAG_Perez_Letter_to_Ed_OCR_Title%20VI_and_Religiously_Identifiable_Groups.pdf

“Although Title VI does not prohibit discrimination on the basis of religion, discrimination against Jews, Muslims, Sikhs, and members of other religious groups violates Title VI when that discrimination is based on the group’s actual or perceived shared ancestry or ethnic characteristics, rather than its members’ religious practice.”



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Department of Education Office for Civil Rights (OCR) October 2010 Dear Colleague Letter

<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html>

“Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Harassment creates a hostile environment when the conduct is sufficiently severe, pervasive, or persistent so as to interfere with or limit a student’s ability to participate in or benefit from the services, activities, or opportunities offered by a school.”

“If an investigation reveals that discriminatory harassment has occurred, a school must take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring.”

US State Department 2010 Definition of Anti-Semitism

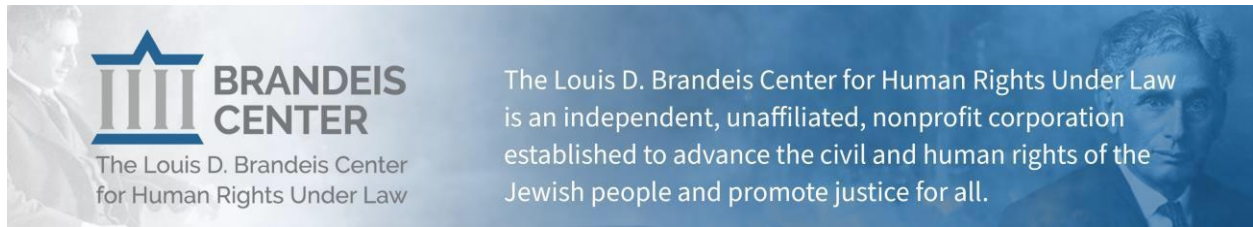
<https://2009-2017.state.gov/documents/organization/156684.pdf>

Modeled after the Working Definition of Anti-Semitism by the European Monitoring Center on Racism and Xenophobia (the precursor to IHRA). Divides examples of “What is Anti-Semitism Relative to Israel?” into three categories: “Demonize Israel,” “Double Standard for Israel,” and “Delegitimize Israel.” (Following Natan Sharansky’s “3-D’s.”). At the bottom of the definition, it says: “However, criticism of Israel similar to that leveled against any other country cannot be regarded as anti-Semitic.”

The International Holocaust Remembrance Alliance (IHRA) Working Definition of Antisemitism (May 2016)

<https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-antisemitism>

The language in the “black box” in the IHRA definition is identical to the opening language of the 2010 State Department definition. The included examples are also almost identical. The primary difference is that the IHRA Definition does not separate out the Israel related examples or divide them into the 3-D categories. In addition, the statement “However, criticism of Israel similar to that leveled against any other country cannot be regarded as antisemitic” is moved up to the first paragraph of the IHRA Working Definition (instead of being placed at the end).



Executive Order 13899 (Executive Order on Combatting Anti-Semitism)

<https://www.govinfo.gov/content/pkg/DCPD-201900859/pdf/DCPD-201900859.pdf>

“Title VI of the Civil Rights Act of 1964 (Title VI) 42 U.S.C. 2000d et seq. prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving Federal financial assistance. While Title VI does not cover discrimination based on religion, individuals who face discrimination on the basis of race, color, or national origin do not lose protection under Title VI for also being a member of a group that shares common religious practices. Discrimination against Jews may give rise to a Title VI violation when the discrimination is based on an individual’s race, color, or national origin.”

“In enforcing Title VI, and identifying evidence of discrimination based on race, color, or national origin, all executive departments and agencies charged with enforcing Title VI shall consider . . . (i) the non-legally binding working definition of anti-Semitism adopted on May 26, 2016, by the International Holocaust Remembrance Alliance (IHRA) . . . (ii) the “Contemporary Examples of Anti-Semitism” identified by the IHRA, to the extent that any examples might be useful as evidence of discriminatory intent.”

Department of Education Questions & Answers on Executive Order 13899 (EO on Combatting Anti-Semitism)

<https://www2.ed.gov/about/offices/list/ocr/docs/qa-titleix-anti-semitism-20210119.pdf>

Department of Education Fact Sheet on “Protecting Students from Discrimination Based on Shared Ancestry or Ethnic Characteristics” (January 2023)

<https://www2.ed.gov/about/offices/list/ocr/docs/ocr-factsheet-shared-ancestry-202301.pdf>

University of Illinois at Urbana Champagne (UIUC) Joint Statement on anti-Semitism (November 2020) (excerpt)

<https://blogs.illinois.edu/view/6231/1530347443>

“For many Jewish students, Zionism is an integral part of their identity and their ethnic and ancestral heritage. These students have the right to openly express identification with Israel. The university will safeguard the abilities of these students, as well as all students, to participate in university-sponsored activities free from discrimination and harassment.”



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University of Illinois at Urbana Champagne (UIUC) Joint Statement on anti-Semitism (November 2020) (excerpt cont.)

“We deplore anti-Semitic incidents on campus, including those that demonize or delegitimize Jewish and pro-Israel students or compare them to Nazis. This subjects them to double standards that are not applied to others. All Jewish students, including those who identify with Israel or Jewish campus organizations, should be able to participate in campus activities aimed at fighting racism and achieving social justice.”

Brandeis Center Title VI Complaint against University of Vermont (UVM) (October 2021)

https://brandeiscenter.com/wp-content/uploads/2022/09/10-2-21-UVM-Complaint_Redacted.pdf

Department of Education Office for Civil Rights (OCR) announcement of Resolution Agreement with University of Vermont (UVM) (April 3, 2023) (Includes hyperlinks to OCR’s Resolution Letter and Resolution Agreement)

<https://www.ed.gov/news/press-releases/us-department-educations-office-civil-rights-resolves-investigation-addressing-university-vermonts-responses-allegations-antisemitic-incidents> (Treats anti-Zionist harassment as a form of national origin discrimination on the basis of shared ancestry.)

Brandeis Center statement on OCR – UVM Resolution Agreement (April 4, 2023)

<https://brandeiscenter.com/wp-content/uploads/2023/04/23-04-04-LDB-UVM-OCR-4.4.23-revised-redline.pdf>



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University of Vermont Statement Regarding Resolution Agreement (April 3, 2023)

<https://www.uvm.edu/news/provost/improving-policies-and-procedures-support-our-inclusive-community>

“It is UVM’s responsibility to provide equal opportunity for all members of its community including those who identify as Jewish to fully express their identity in an environment free from discrimination and harassment. If members of our campus community experience a hostile educational or work environment because of their identity, including their shared ancestry, the university will use all tools at its disposal to address and eliminate the hostile behavior and enable each member of our community to learn and work in an inclusive environment that leans in to our Common Ground values.”

“As part of our commitment to continual review and improvement, UVM is updating our equal opportunity and antiharassment policies and procedures to make abundantly clear that discrimination and harassment based on shared ancestry, including antisemitism, violate university policy.”

The U.S. National Strategy to Counter Antisemitism (May 2023)

<https://www.whitehouse.gov/wp-content/uploads/2023/05/U.S.-National-Strategy-to-Counter-Antisemitism.pdf>

“Jewish students and educators are targeted for derision and exclusion on college campuses, often because of their real or perceived views about the State of Israel. When Jews are targeted because of their beliefs or their identity, when Israel is singled out because of anti-Jewish hatred, that is antisemitism. And that is unacceptable.” (at p. 9)

“History shows that we cannot allow antisemitism to fester. Where antisemitism and other forms of hatred are left to rage, democracy and American values are at risk. So too are freedom, security, and stability. Antisemitism, like numerous forms of hate, seeks to divide Americans from one another. It undermines our democracy and erodes trust in government, social institutions, and the basic values of our society. Antisemitism is not only a threat to Jewish Americans, it is a threat to all of us.” (at p. 9)

“As we confront antisemitism, we do so with profound respect for our democratic traditions, including free expression and speech protected by the First Amendment. We also do so with an unshakable commitment to the State of Israel’s right to exist, its legitimacy, and its security. In addition, we recognize and celebrate the deep historical, religious, cultural, and other ties many American Jews and other Americans have to Israel.” (at p. 11)



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Department of Education Office for Civil Rights (OCR) May 25, 2023 Dear Colleague Letter

<https://www2.ed.gov/about/offices/list/ocr/docs/antisemitism-dcl.pdf>

Lists the FAQs about EO 13899 as one of the recommended resources on Title VI.

“Schools must take immediate and appropriate action to respond to harassment that creates a hostile environment. OCR generally finds that a hostile environment exists where there is harassing conduct that is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the services, activities, or privileges provided by a school.”

“If a hostile environment based on shared ancestry existed, and the school knew or should have known of the hostile environment, OCR will evaluate whether the school met its obligation under Title VI to take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent harassment from recurring. In other words, a school violates Title VI when it fails to take adequate steps to address discriminatory harassment, such as antisemitic harassment.”

Department of Education Office for Civil Rights (OCR) November 7, 2023 Dear Colleague Letter

<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-202311-discrimination-harassment-shared-ancestry.pdf>

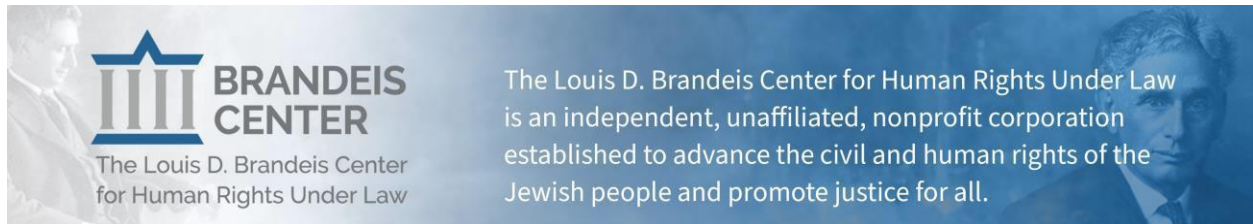
Lists the FAQs about EO 13899 as one of the recommended resources on Title VI.

Contains newer language regarding a “hostile environment”

“Harassing conduct can be verbal or physical and need not be directed at a particular individual. OCR interprets Title VI to mean that the following type of harassment creates a hostile environment: unwelcome conduct based on shared ancestry or ethnic characteristics that, based on the totality of circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the recipient’s education program or activity. Schools must take immediate and effective action to respond to harassment that creates a hostile environment.”

Department of Education Office for Civil Rights (OCR) May 7, 2024 Dear Colleague Letter

<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-202405-shared-ancestry.pdf>



ARTICLES:

Alyza D. Lewin (2023): Anti-Zionist Harassment Is Against the Law, Too, *Sapir Journal* (Vol 10, Summer 2023)

<https://sapirjournal.org/antisemitism/2023/08/anti-zionist-harassment-is-against-the-law-too/>

Alyza D. Lewin (2020): Zionism – The integral component of Jewish Identity that Jews are historically pressured to shed, *Israel Affairs* (April 29, 2020),

DOI: 10.1080/13537121.202.1754577

<https://brandeiscenter.com/zionism-the-integral-component-of-jewish-identity-that-jews-are-historically-pressured-to-shed-4-29-2020/>