

CLIENT ALERT

U.S. Senate Considers Legislation on Title VI Enforcement on College Campuses

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The United States Senate is considering two pieces of legislation aimed at combating discrimination under Title VI of the Civil Rights Act of 1965 (“Title VI”) on college campuses: the Antisemitism Awareness Act (the “Antisemitism Act”)¹ and the Protecting Students on Campus Act (the “Campus Act”).² These bills reflect a Congressional commitment to prioritize the protection of Jewish students from antisemitic conduct on campus and empower the Department of Education (the “Department”) to vigorously enforce Title VI’s requirement to ensure a learning environment that is hospitable to all students.

Antisemitism Awareness Act

The Antisemitism Act was passed in the U.S. House of Representatives in May of 2024 and was considered at a hearing of the U.S. Senate Health, Education, Labor and Pensions Committee (the “Committee”) on April 30, 2025. The bill would require the Department of Education to take into consideration the International Holocaust

¹ Antisemitism Awareness Act of 2023, H.R. 6090, 118th Cong. (May 2, 2024), <https://www.congress.gov/bill/118th-congress/house-bill/6090/text>.

² Protecting Students on Campus Act, S.3580, 118th Cong. (Jan. 11, 2024), <https://www.congress.gov/bill/118th-congress/senate-bill/3580>.

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Remembrance Alliance's (IHRA) definition of antisemitism when considering whether an alleged act of discrimination was motivated by an individual's actual or perceived Jewish ancestry or ethnic characteristics.³ It would codify Executive Order 13899,⁴ signed by President Trump in 2019, which extended protections against discrimination under Title VI to individuals subjected to antisemitism on college campuses and directed the Department to consider the IHRA definition of antisemitism when enforcing Title VI. The Biden Administration continued to abide by Executive Order 13899, as the Office of Civil Rights ("OCR") at the Department of Education applied the IHRA definition when evaluating Title VI investigations.

The IHRA's working definition of 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."⁵ The IHRA definition also provides a number of examples of antisemitism which include Holocaust denial, calling for violence against Jews, and drawing comparisons of contemporary Israeli policy to that of the Nazis.⁶ Under the Antisemitism Act, the Department of Education would be legally required to apply this definition to the evaluation of actions alleged in a Title VI complaint as motivated by antisemitic intent.⁷

During the two-hour debate at the April 30 Committee hearing, several lawmakers expressed concerns about the bill's constitutionality and its intersection with the First Amendment. Republican Senators Rand Paul and Susan Collins joined with Democrats to pass several amendments to the bill's language designed to ensure that Title VI enforcement of the IHRA definition does not infringe upon free expression.⁸ These amendments include language clarifying that it is not antisemitic to oppose the "devastation of Gaza" or to criticize prime minister Benjamin Netanyahu.⁹ Lawmakers also indicated that the bill should be amended to protect the rights of students and faculty members on college campuses to peacefully protest in support of Palestinians.¹⁰ The Committee's Chairman, Senator Bill Cassidy of Louisiana, opposed the amendments and did not believe the bill required additional first amendment protections.¹¹ A vote on the bill was postponed, which makes the future of the Antisemitism Act uncertain.

³ See *supra* note 1.

⁴ Executive Order 13899—Combating Anti-Semitism (Dec. 11, 2019), <https://www.govinfo.gov/content/pkg/DCPD-201900859/pdf/DCPD-201900859.pdf>.

⁵ *Working definition of antisemitism*, International Holocaust Remembrance Alliance (2025), <https://holocaustremembrance.com/resources/working-definition-antisemitism>.

⁶ See *id.*

⁷ See *supra* note 1.

⁸ Jessica Blake, *Senate Committee Postpones Vote on Antisemitism Awareness Act*, Inside Higher Ed (May 1, 2025), https://www.insidehighered.com/news/quick-takes/2025/05/01/senate-committee-postpones-vote-antisemitism-awareness-act?utm_source=Inside+Higher+Ed&utm_campaign=b1ff1bc3ad-DNU_2021_COPY_02&utm_medium=email&utm_term=0_1fcbc04421-b1ff1bc3ad-237993354&mc_cid=b1ff1bc3ad&mc_eid=f1e4d9f11c.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

Protecting Students on Campus Act

In January 2024, the Campus Act was also referred to the Committee for consideration. This bill mandates that the Secretary of Education, acting through the Assistant Secretary for Civil Rights, carry out a “Title VI Awareness Campaign.”¹² Colleges and universities that participate in federal student aid programs would be required to “prominently display[] on the homepage” of its website a link to the OCR webpage “where an individual can submit a complaint regarding discrimination on the basis of race, color, or national origin” in violation of Title VI.¹³ The Campus Act would also mandate that colleges and universities display this information by “physical posting in 1 or more high traffic public places.”¹⁴ It would require that schools submit an annual report to the Inspector General of the Department that includes “(1) the number of complaints regarding discrimination in violation of Title VI submitted to the institution in the previous year, (2) an analysis of the number of such complaints and their substance, and (3) a narrative of the action the institution took with respect to such complaints.”¹⁵ The Inspector General would be required to complete an “annual audit of the institutions of higher education that are in the top 5 percent of institutions based on the per capita number of complaints [] received by the institutions, controlling for student population, to examine the process for addressing such complaints and the need for any referrals” to OCR.¹⁶ It is not clear when the Committee will schedule the Campus Act for a vote.

Potential Implications for Universities

As discussed in a prior client alert,¹⁷ the new Department is particularly focused on investigating and resolving complaints of antisemitic conduct in its Title VI enforcement efforts. These two pieces of proposed legislation indicate that Congress is similarly committed to codifying these priorities and providing the Department with additional authority to effectuate that commitment. Colleges and universities can expect a continued focus on antisemitism by the Department, which will only increase if these bills are passed.

To comply with these new standards and meet the Department’s expectations for the protection of Jewish students, schools should ensure that their Title VI policy provides a definition of antisemitism that is as broad as the IHRA standard and includes a clear channel to report complaints related to antisemitism. Schools should also maintain organized and accessible databases for Title VI complaints and ensure that there are clear guidelines for investigating such complaints. The proposed legislation’s standards and commitment to more vigorous protection against antisemitic conduct are not unique to the new administration, as the Biden Department of Education mandated the use of the IHRA definition and increased Title VI enforcement in recent resolution agreements between OCR and several schools.¹⁸

¹² See *supra* note 2.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ See *President Trumps’ Executive Order on Antisemitism Targets Campus Protestors* (Feb. 4, 2025), <https://www.willkie.com/-/media/files/publications/2025/02/president-trump-s-executive-order-on-antisemitism-targets-campus-protestors.pdf>.

¹⁸ See Resolution Agreement, University of Washington, U.S. DEPT. OF EDUC. (Jan. 14, 2025) <https://ocrcas.ed.gov/sites/default/files/ocr-letters-and-agreements/10242040-b.pdf>; Resolution Agreement, The City University of New York, U.S. DEPT. OF EDUC. (June 10, 2024),

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The proposed amendments to the Antisemitism Act and the Committee’s discussion highlight the tension between robust Title VI enforcement and the First Amendment. Speech that is arguably constitutionally protected and not subject to prior restraint may produce a hostile learning environment for Jewish or other students, creating practical enforcement dilemmas for universities. Schools need to review time, place, and manner restrictions on speech and ensure that they are consistently enforced on a content-neutral basis. When protected speech gives rise to reports of discrimination and harassment, schools must monitor the impact of the speech on the “learning environment” on campus and provide robust services to the impacted students. The dual requirements of protecting both free speech and community safety have been mandated by OCR across administrations and will continue to create enforcement challenges for universities going forward.

Willkie is here to assist institutions of higher education to analyze how new legislation may impact existing policies and ensure compliance with Title VI without violating other federal laws. Our seasoned higher education team provides policy review and helps implement systems to ensure compliance with Title VI, the First Amendment, and other provisions of law. Willkie can assist university personnel by ensuring that current reporting protocols allow schools to efficiently address any claims of antisemitism and comply with executive orders as they emerge or evolve. Our team can also help colleges and universities create policies and procedures to manage campus protests in accordance with local and federal laws. Finally, our team routinely conducts investigations of reported violations of federal laws like Title VI. As issues of interpretation and application of new laws arise, we are standing by to provide advice and counsel.

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