115TH CONGRESS 2D SESSION

H. R. 5924

To provide for the consideration of a definition of anti-Semitism for the enforcement of Federal antidiscrimination laws concerning education programs or activities.

IN THE HOUSE OF REPRESENTATIVES

May 23, 2018

Mr. Roskam (for himself, Mr. Deutch, Mr. Collins of Georgia, Mr. Nadler, Mrs. McMorris Rodgers, Ms. Ros-Lehtinen, Ms. Granger, Mrs. Lowey, Mr. Sherman, Mr. Veasey, Mr. Buck, and Mr. Engel) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the consideration of a definition of anti-Semitism for the enforcement of Federal antidiscrimination laws concerning education programs or activities.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 SECTION 1. SHORT TITLE.
- 4 This Act may be cited as the "Anti-Semitism Aware-
- 5 ness Act of 2018".

1 SEC. 2. FINDINGS.

- 2 Congress makes the following findings:
- 3 (1) Title VI of the Civil Rights Act of 1964 (re-4 ferred to in the section as "title VI") is one of the 5 principal antidiscrimination statutes enforced by the 6 Department of Education's Office for Civil Rights.
 - (2) Title VI prohibits discrimination on the basis of race, color, or national origin.
 - (3) Both the Department of Justice and the Department of Education have properly concluded that title VI prohibits discrimination against Jews, Muslims, Sikhs, and members of other religious groups when the discrimination is based on the group's actual or perceived shared ancestry or ethnic characteristics or when the discrimination is based on actual or perceived citizenship or residence in a country whose residents share a dominant religion or a distinct religious identity.
 - (4) A September 8, 2010, letter from Assistant Attorney General Thomas E. Perez to Assistant Secretary for Civil Rights Russlynn H. Ali stated that "[a]lthough Title VI does not prohibit discrimination on the basis of religion, discrimination against Jews, Muslims, Sikhs, and members of other groups violates Title VI when that discrimination is based on

- the group's actual or perceived shared ancestry or ethnic characteristics''.
 - (5) To assist State and local educational agencies and schools in their efforts to comply with Federal law, the Department of Education periodically issues Dear Colleague letters. On a number of occasions, these letters set forth the Department of Education's interpretation of the statutory and regulatory obligations of schools under title VI.
 - (6) On September 13, 2004, the Department of Education issued a Dear Colleague letter regarding the obligations of schools (including colleges) under title VI to address incidents involving religious discrimination. The 2004 letter specifically notes that "since the attacks of September 11, 2001, OCR has received complaints of race or national origin harassment commingled with aspects of religious discrimination against Arab Muslim, Sikh, and Jewish students.".
 - (7) An October 26, 2010, Dear Colleague letter issued by the Department of Education stated, "While Title VI does not cover discrimination based solely on religion, groups that face discrimination on the basis of actual or perceived shared ancestry or ethnic characteristics may not be denied protection

- under Title VI on the ground that they also share a common faith. These principles apply not just to Jewish students, but also to students from any discrete religious group that shares, or is perceived to share, ancestry or ethnic characteristics (e.g., Muslims or Sikhs).".
 - (8) Anti-Semitism, and harassment on the basis of actual or perceived shared ancestry or ethnic characteristics with a religious group, remains a persistent, disturbing problem in elementary and secondary schools and on college campuses.
 - (9) Students from a range of diverse backgrounds, including Jewish, Arab Muslim, and Sikh students, are being threatened, harassed, or intimidated in their schools (including on their campuses) on the basis of their shared ancestry or ethnic characteristics including through harassing conduct that creates a hostile environment so severe, pervasive, or persistent so as to interfere with or limit some students' ability to participate in or benefit from the services, activities, or opportunities offered by schools.
 - (10) The 2010 Dear Colleague letter cautioned schools that they "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," but did not provide guidance on current manifestations of anti-Semitism, including discriminatory anti-Semitic conduct that is couched as anti-Israel or anti-Zionist.
 - (11) The definition and examples referred to in paragraphs (1) and (2) of section 3 have been valuable tools to help identify contemporary manifestations of anti-Semitism, and include useful examples of discriminatory anti-Israel conduct that crosses the line into anti-Semitism.
 - (12) Awareness of this definition of anti-Semitism will increase understanding of the parameters of contemporary anti-Jewish conduct and will assist the Department of Education in determining whether an investigation of anti-Semitism under title VI is warranted.

19 SEC. 3. DEFINITIONS.

- For purposes of this Act, the term "definition of anti-
- 21 Semitism"—

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- (1) includes the definition of anti-Semitism set
- forth by the Special Envoy to Monitor and Combat
- 24 Anti-Semitism of the Department of State in the
- Fact Sheet issued on June 8, 2010; and

- 1 (2) includes the examples set forth under the
- 2 headings "Contemporary Examples of Anti-Semi-
- 3 tism" and "What is Anti-Semitism Relative to
- 4 Israel?" of the Fact Sheet.

5 SEC. 4. RULE OF CONSTRUCTION FOR TITLE VI OF THE

- 6 CIVIL RIGHTS ACT OF 1964.
- 7 In reviewing, investigating, or deciding whether there
- 8 has been a violation of title VI of the Civil Rights Act
- 9 of 1964 (42 U.S.C. 2000d et seq.) on the basis of race,
- 10 color, or national origin, based on an individual's actual
- 11 or perceived shared Jewish ancestry or Jewish ethnic char-
- 12 acteristics, the Department of Education shall take into
- 13 consideration the definition of anti-Semitism as part of the
- 14 Department's assessment of whether the practice was mo-
- 15 tivated by anti-Semitic intent.

16 SEC. 5. ADMINISTRATION.

- 17 The Assistant Secretary for Civil Rights shall admin-
- 18 ister and enforce title VI of the Civil Rights Act of 1964
- 19 (42 U.S.C. 2000d et seq.) and title IX of the Education
- 20 Amendments of 1972 (20 U.S.C. 1681 et seq.) in a man-
- 21 ner that is consistent with the manner of administration
- 22 and enforcement described in the Dear Colleague letter
- 23 issued on September 13, 2004, by the Deputy Assistant
- 24 Secretary for Enforcement of the Department of Edu-

- cation, entitled "Title VI and Title IX Religious Discrimination in Schools and Colleges". 3 SEC. 6. OTHER RULES OF CONSTRUCTION. 4 (a) General Rule of Construction.—Nothing in this Act shall be construed— (1) to expand the authority of the Secretary of 6 7 Education: 8 (2) to alter the standards pursuant to which the 9 Department of Education makes a determination 10 that harassing conduct amounts to actionable dis-11 crimination; or 12 (3) to diminish or infringe upon the rights pro-13 tected under any other provision of law that is in ef-14 fect as of the date of enactment of this Act. 15 (b) Constitutional Protections.—Nothing in
- 18 Constitution of the United States.

this Act shall be construed to diminish or infringe upon

any right protected under the First Amendment to the

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