

LEGAL RESOURCES FOR CAMPUS ANTISEMITISM

The Louis D. Brandeis Center for Human Rights Under Law

<https://brandeiscenter.com/get-legal-help/>

LDB is an independent, unaffiliated, nonprofit corporation established to advance the civil and human rights of the Jewish people and promote justice for all. LDB engages in research, and legal advocacy to combat the resurgence of anti-Semitism on college and university campuses, in the workplace, and elsewhere. It empowers students by training them to understand their legal rights and educates administrators and employers on best practices to combat racism and anti-Semitism

The Lawfare Project

<https://www.thelawfareproject.org/get-legal-help>

We are a global network of legal professionals that contribute our skills, time and expertise to defending the civil and human rights of the Jewish people, and fighting discrimination wherever we see it.

Free Speech

- Freedom of speech is a principle that protects the right of individuals and communities to express their opinions and ideas without fear of retaliation, censorship, or legal sanction.
- The First Amendment of the U.S. Constitution protects freedom of speech, the press, assembly, and the right to petition the government. The term "speech" includes more than just words, but also what a person wears, reads, performs, and protests. The First Amendment protects even speech that many would see as offensive, hateful, or harassing – this includes antisemitism and hatred of Jews.

Hate speech, bigoted speech, racist speech, is all protected by the first amendment. What is not protected is acting on that hate speech. The first amendment does NOT protect you from being LABELED as a racist or an antisemite. So, when it is truly a free speech issue on campus, the goal is to get the campus administration to treat it the same way they would treat any other hate speech.

- They should label and condemn it in the strongest possible terms the way they would

any racist, homophobic, anti-trans, anti-immigrant or other bigoted speech. With any other community targeted by hostile speech, universities are quick to use their own free speech rights to condemn it. But when it comes to the Jews, they are scared to do this because they are worried it will be seen as political. This is because our enemies have conflated politics and demonization.

IF CONDUCT IS INVOLVED: There are also many times it is beyond speech. There is conduct involved. Tell students and faculty to record the specific interactions: did someone threaten you, engage with you in an intimidating manner, did someone physically touch you, did someone hold a kaffiyeh around your body to block your view or direction? These are all examples of conduct that is likely punishable.

National Origin Discrimination

- National origin discrimination involves treating people (job applicants or employees) unfavorably because they are from a particular country or part of the world, because of ethnicity or accent, or because they appear to be of a certain ethnic background (even if they are not).
- National origin discrimination also can involve treating people unfavorably because they are married to (or associated with) a person of a certain national origin.
- Discrimination can occur when the victim and the person who inflicted the discrimination are the same national origin.

TITLE VI

Title VI of the Civil Rights Act of 1964 prohibits exclusion from participation in, denial of benefits of, and discrimination under federally assisted programs on ground of race, color or national origin

TITLE VII

Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on race, color, religion, sex, or national origin.

Campus Antisemitism

“Most university administrators mistakenly think that what is taking place on their campus is a good faith political debate about the Arab-Israeli conflict, and it’s not. What has been going on for years on the university campuses is a very determined, deliberate effort to defame and to dehumanize and to marginalize and to shun Jews, specifically any Jews who

feel that part of their identity is a connection to Israel. So now the group targeted is specifically the Zionists.” – Alyza Lewin

After October 7, antisemitism has spread like wildfire on campuses because for years the groundwork has been laid and the set has been primed for people to believe that the Zionists are evil.

What Does the Brandeis Center do?

- Work with faculty AND students to help them articulate what is happening to them to help the universities and administrators understand that what is happening to them IS discrimination and harassment and not good faith political debate.
- Will also defend those that are involved in unlawful conduct, are attacked, are threatened, etc.
- The more proactive steps involve targeting campuses that do not seem to be responding to either student or faculty efforts and so the Brandeis Center can initiate a case. That could be an administrative complaint with the Department of Education, or it could be an actual lawsuit in federal court.

More on Title VI:

Title VI and Title VII are part of the civic rights act which were passed as a response to segregation in the 1960s to give equal opportunity to everyone. Essentially, the government will give you money, but the money comes with strings attached and so if you do not protect against this kind of discrimination, you will lose the money.

Title VI does not mention religion as a protected category, but it was specifically after September 11, 2001, when many Muslims were being discriminated against, and many Sikhs as well since they were being mistaken for Muslims, that this became a larger issue. Ken Marucs, at the time an employee of the US Justice Department, wrote a Dear Colleague letter about the issue which basically said:

If members of religious communities are being targeted on the basis of one of these other categories that Title VI includes like race, color, or national origin, they don't lose that protection just because they also share a common faith. Even though religion isn't one of the protected categories, we are going to interpret this law as protecting members of faith-based communities, when they are targeted on the basis of one of these other categories.

This letter used language which described groups that had shared ancestry and/or ethnic characteristics, for example: Jews. Every successive administration had adopted this implementation.

This applies if they are targeting the members of the community on the basis of their shared ancestry or ethnicity, NOT on their religious practice.

National Origin discrimination applies to Jewish people, not just Israelis. This has been successfully argued in court, has been stated in a presidential executive order, and has been recognized by the Department of Education.

The problem with antisemitism today is that many people are not able to separate what is legitimate criticism of policy and discussion of politics, and what is dehumanizing and demonization of a people. Our enemies are working overtime to conflate these two.

Saying “Zionists are not welcome” is not a discussion about anything. The only kind of acceptable Jew nowadays is the anti-Zionist Jew. But for most Jews in the world, Zionism is an integral piece of our identity. And the response to people who disagree, or say what about the antizionist Jews, is that no one else can define my own identity.

How can you claim that Zionism is an integral part of Jewish identity when there are anti-Zionist Jews?

It’s true that not all Jews are Zionists. Not all Jews observe the Sabbath either. We live in a world today where everyone is allowed to define their identity for themselves. No one should be slowed to define your identity for you. We have to respect that, and we have to welcome everyone to the table with their full identity. That is intersectionality. If that is the case, it can’t be that the only people who are not welcome in their full identity is Jewish Zionists. That is antisemitic discrimination.

Antisemitism is not always easy to recognize because it looks different in every generation. What is the constant?

Whatever the evils of society are for that generation, the Jews are used as the scapegoat. Today’s generation has the emphasis on human and civil rights, so the evil of today is colonialism, apartheid, and oppression. So, if you understand that antisemitism is blaming the Jew, the idea is the world would be a better place without the Jews. The Nazis forced Jews to wear a yellow Star of David to push them to the fringes of society as the beginning of their campaign to ostracize and separate them from German society.

If you think about campuses today, they are pushing Jews out of acceptable society. But also today, we don’t just have individual Jews scattered around the world. Ever since the creation of the state of Israel, we have a Jewish collective, a Jewish nation state, for the first time in 2,000 years. When people think about which country in the world is the worst offender when it comes to human rights, they don’t point to North Korea or Russia, China or Iran, they single out the Jewish collective: Israel. When you understand antisemitism as pushing out individual Jews, and now the Jewish state, it becomes clear that today’s contemporary antisemitism is telling the only Jewish state that it has no right to exist.

Special Thanks to Alyza Lewin, L.D.

Resources:

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<https://www.legal-protection.org/>

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

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

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