



**Middle
East
Studies
Association**
of North America, Inc.

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Senator Joel Anderson
State Capitol, Room 5052
Sacramento, CA 95814-4900

Senator Patricia C. Bates
State Capitol, Room 4048
Sacramento, CA 95814-4900

Senator Tom Berryhill
State Capitol, Room 3076
Sacramento, CA 95814-4900

Senator Marty Block
State Capitol, Room 4072
Sacramento, CA 95814-4900

Senator Ted Gaines
State Capitol, Room 3070
Sacramento, CA 95814-4900

Senator Holly J. Mitchell
State Capitol, Room 5080
Sacramento, CA 95814-4900

Senator Richard D. Roth
State Capitol, Room 4034
Sacramento, CA 95814-4900

Senator Andy Vidak
State Capitol, Room 3082
Sacramento, CA 95814-4900

Senator Lois Wolk
State Capitol, Room 5114
Sacramento, CA 95814-4900

Senator Kevin de León
Senate President Pro Tempore
State Capitol, Room 205
Sacramento, CA 95814-4900

Dear Senator:

I am writing on behalf of the Committee on Academic Freedom of the Middle East Studies Association of North America to express our deep concern about California Senate Concurrent Resolution 35. While we commend the authors of this resolution for condemning “all forms of anti-Semitism and racism, including Islamophobia,” we believe that the wording of other parts of the resolution is inconsistent with both current California state law and University of California policy regarding academic freedom for both students and faculty.

MESA was founded in 1966 to promote scholarship and teaching on the Middle East and North Africa. The preeminent organization in the field, the Association publishes the *International Journal of Middle East Studies* and has nearly 3,000 members worldwide. MESA is committed to ensuring academic freedom and freedom of expression, both within the region and in connection with the study of the region in North America and elsewhere.

We believe that SCR 35 defines anti-Semitism in terms so broad as to critically hamper responsible academic discussion of international affairs. For example, SCR 35 condemns “attempts to justify anti-Jewish hatred or violent attacks as an acceptable expression of disapproval or frustration over political events in the Middle East.” Without defining specifically what counts as “anti-Jewish hatred,” or whether these “violent attacks” refer to international military conflict or to incidents on U.S. university campuses, this condemnation could, for example, be applied to anything from the racist defacement of university property with swastikas to calm classroom

discussions in which students are trying to come to an understanding of the political motivations and activities of armed groups in Gaza or Lebanon. SCR 35 cites the definition of anti-Semitism used by the United States Department of State, which was based on a definition developed by the European Monitoring Centre on Racism and Xenophobia (EUMC) as a tool for monitoring anti-Semitic incidents around the world. It is important to note that the State Department definition includes, as examples of anti-Semitism, certain kinds of obviously political criticisms of the State of Israel--such as theoretical and practical questions of political legitimacy--which are not only valid topics of discussion but are protected by the free speech guarantees of the U.S. Constitution and by the guarantees of academic freedom enshrined in California law and in University of California system policy.

We note in this connection that the Senate Rules Committee's 8 May 2015 legislative analysis of SCR 35 points out that current state law "Prohibits the UC Regents, California State University (CSU) Trustees, and Community College District governing boards from making or enforcing a rule subjecting a student to disciplinary sanction solely on the basis of conduct that is speech or other communication that, when engaged in outside a campus of those institutions, is protected from governmental restriction by the First Amendment to the United States Constitution or Section 2 of Article I of the California Constitution."

Likewise, Policy 010 of the Academic Personnel Manual published by the Office of the President of the University of California states that the university's educational goals "cannot be achieved unless students and faculty are free within the classroom to express the widest range of viewpoints in accord with the standards of scholarly inquiry," and that "Academic freedom requires that teaching and scholarship be assessed by reference to the professional standards that sustain the University's pursuit and achievement of knowledge. The substance and nature of these standards properly lie within the expertise and authority of the faculty as a body," and not with legislative or administrative bodies. Student expression is protected by the same policy: "For students to develop a mature independence of mind, they must be free in the classroom to express a wide range of viewpoints in accord with standards of scholarly inquiry and relevance to the topic at hand. No student can abridge the rights of other students when exercising their right to differ."

Although SCR 35 itself does not call for the implementation of rules, it would nevertheless place tremendous pressure on the leaders of the University of California system and on its individual campuses to adopt this particular definition of anti-Semitism as part of standing university policy. This would not be conducive to carrying out the university's basic responsibilities of research and teaching.

On 22 June 2015, Kenneth Stern, the lead author of the EUMC definition of anti-Semitism on which that of the State Department is based, cautioned in

the *Jewish Journal* that the State Department definition is inappropriate for use in a university context, writing that “[T]o enshrine such a definition on a college campus is an ill-advised idea that will make matters worse, and not only for Jewish students; it would also damage the university as a whole.” Adopting the State Department definition of anti-Semitism would have a chilling effect on scholarly discussion of international affairs in California, leading, for example, to the perverse effect of defining as anti-Semitism even criticisms of Israel made by Israeli scholars or by the Jewish students the Resolution is meant to protect.

Some of the groups supporting SCR 35, such as the AMCHA Initiative, are simultaneously directly lobbying the University of California Board of Regents and UC President Napolitano, urging them to adopt the State Department definition. Their campaigns state explicitly that “the original intent of this very important resolution [SCR 35]” is to use the State Department definition specifically *because* it defines certain kinds of criticisms of the State of Israel as anti-Semitism. (It is worth noting that the AMCHA Initiative and some of the other supporters of SCR 35, such as the Louis D. Brandeis Center for Human Rights Under Law, have a history of targeting legitimate academic activities at California educational institutions; they have in the recent past issued false and inflammatory public accusations of anti-Semitic activity against the Gustave von Grunebaum Center for Near Eastern Studies at UCLA.)

We join the California Faculty Association, the Center for Constitutional Rights, Jewish Voice for Peace, the National Lawyers Guild, and others in recommending against the use of the U.S. State Department’s definition of anti-Semitism in Senate Concurrent Resolution 35. And we urge the members of the California Senate and the California Assembly to protect and enhance the rights of students and faculty in the state to discuss important contemporary conflicts without condemnation or penalty.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Nathan Brown', written in a cursive style.

Nathan Brown
MESA President
Professor, George Washington University