



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

1219 N Santa Rita Ave
The University of Arizona
Tucson AZ 85721 USA

520 621-5850
520 626-9095 fax
caf@mesana.org
www.mesana.org



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Janet Napolitano
President, University of California
via email: president@ucop.edu

Dear President Napolitano:

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 a lobbying campaign currently being conducted by the AMCHA Initiative and other groups urging that the University of California officially adopt a specific definition of anti-Semitism used by the U.S. State Department as referred to in the text of California Senate Concurrent Resolution 35. While we commend the authors of that resolution for condemning “all forms of anti-Semitism and racism, including Islamophobia,” we believe that the adoption by the University of California of the State Department’s definition of anti-Semitism is inconsistent both with current California state law and university 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.

The State Department definition is modeled on a definition developed by the European Centre for Monitoring Racism and Xenophobia (EUMC) as a tool for monitoring anti-Semitic incidents worldwide. The definition includes, as examples of anti-Semitism, certain kinds of philosophical and political criticisms of the State of Israel which are not only valid topics of academic discussion but are protected by the free speech guarantees of the U.S. Constitution and by the principles of academic freedom enshrined in California law and in University of California system policy.

According to the California Senate Rules Committee’s 8 May 2015 legislative analysis of SCR 35, 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.” We believe that the same protections of thought and expression that apply to students and faculty within the classroom also extend into other areas of the public sphere on university campuses. 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 this lobbying effort is purportedly meant to protect.

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 definition is inappropriate for use in a university context. He wrote that “to 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.” According to Stern,

Those who want the university system to adopt the definition say it isn’t a speech code. . . . But that is precisely what they are seeking. You don’t need a university endorsement of a particular definition in order to increase careful thought about difficult issues, such as when antisemitism is present in debates about Israel and Palestine. AMCHA’s leader. . . rather wants a rule of what is hateful to say and what is not. She has said that advocacy in favor of Boycotts/Divestment/Sanctions (BDS) against Israel would be classified as antisemitic, as would the erection of fake walls imitating Israel’s separation barrier. So if the definition is adopted, presumably administrators would be expected to label such political speech as antisemitic, or face challenges (political and perhaps legal) from AMCHA and its colleagues that they were not doing their jobs.

The AMCHA Initiative’s lobbying materials state explicitly that it is important that the University adopt the State Department definition specifically *because* it defines certain kinds of criticisms of the State of Israel as anti-Semitism. (It



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is worth noting that the AMCHA Initiative and some of the other supporters of this lobbying effort, 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 allegations of anti-Semitic activity against the Gustave von Grunebaum Center for Near Eastern Studies at UCLA.)

We call on the leaders of the University of California and its Regents to reject pressure from groups based outside the university community to adopt the U.S. State Department's definition of anti-Semitism as a matter of university policy. Adoption of that definition would threaten vital discussion of current events by UC faculty and students, and it would likely expose the University to legal action by individuals and groups who feel aggrieved by one or another interpretation or application of the definition to the myriad academic activities that take place daily on the campuses of the UC system. We urge you not to limit, but rather to protect and enhance, the rights of students and faculty to discuss all issues of public concern without threat of condemnation or penalty.

Yours sincerely,

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

Nathan J. Brown
MESA President
Professor, George Washington University

cc:

Aimee Dorr
Provost and Executive Vice President
University of California
via email: provost@ucop.edu

Monica Lozano
Chair of the Board of Regents, University of California
and the members of the Board of Regents
via email: regentsoffice@ucop.edu