



**Middle
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December 5, 2016

Representative Paul Ryan
Speaker of the House of Representatives
via email: paul.ryan@mail.house.gov

Dear Speaker Ryan,

We write on behalf of the Committee on Academic Freedom of the Middle East Studies Association of North America (MESA) to express our strong opposition to HR 6421, which was introduced by Representative Peter Roskam of Illinois on December 1, 2016.

MESA was founded in 1966 to promote scholarship and teaching on the Middle East and North Africa. The preeminent organization in the field, MESA 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.

HR 6421 directs the U.S. Department of Education to take into consideration a specific definition of anti-Semitism proposed by the U.S. Department of State when it assesses whether an alleged incident of discrimination or harassment was motivated by anti-Semitic intent, in keeping with its responsibilities under Title VI of the Civil Rights Act of 1964. We commend the bill's sponsors for acknowledging the problem of discrimination against Muslim, Sikh, Jewish and other students on U.S. college campuses, and we energetically agree that no student should be subjected to harassment based on their ethnic, racial or religious heritage or identity. However, the definition of anti-Semitism that HR 6421 requires the Department of Education to consider is so broad that it is likely to violate the free speech guarantees of the U.S. Constitution as well as the principles of academic freedom enshrined in the policies and founding documents of U.S. institutions of higher education.

The definition of anti-Semitism to which HR 6421 refers is set forth in a Fact Sheet issued by the Department of State on June 8, 2010. This, in turn, was adapted from a definition first developed by the European Centre for Monitoring Racism and Xenophobia (EUMC) as a tool for monitoring anti-Semitic incidents worldwide. The Department of State's Fact Sheet includes, as examples of anti-Semitism, certain kinds of philosophical, historical, and political criticism of the State of Israel which are not only legitimate topics of academic analysis and discussion but also protected speech under the U.S. Constitution.

HR 6421 would require the Department of Education to include in its definition of unlawful harassment a set of examples of purported anti-Semitism that include valid exercises in comparative politics and political theory, including the comparison of specific Israeli legal and military practices to those of 1930s and 1940s Germany, and posing questions about the legitimacy of the Israeli state. It thus dangerously confuses criticism of Israeli policy with anti-Semitism in a way that threatens constitutionally protected freedoms of free speech and inquiry. We believe that defining anti-Semitism so broadly will have a chilling effect on scholarly and public discussion of international affairs and current events in this country. It is likely, in fact, to have the perverse effect of defining as anti-Semitism even criticisms of Israel made by Israeli scholars, or by the Jewish students this legislation is intended to protect.

We note in this connection that on June 2, 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. Referring specifically to a proposal to adopt this language by the University of California system, 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. . . . So if the definition is adopted, presumably [university] administrators would be expected to label [particular kinds of constitutionally protected] political speech as antisemitic, or face challenges (political and perhaps legal) from [special interest lobbying groups] that they were not doing their jobs.

We share the concern of the sponsors and supporters of HR 6421 about the rising tide of racism, xenophobia, and anti-Semitism in the United States. But we believe that this bill is the wrong response, because the definition of anti-Semitism that it requires the Department of Education to consider threatens the free exchange of ideas and free debate about issues of public concern on our college campuses. It may also expose colleges and universities to harassment or legal action by politically motivated individuals and groups who seek to tar those with whom they disagree with the brush of anti-Semitism.



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We therefore urge you and your colleagues to reject HR 6421 and instead to protect and enhance the right of students, faculty and staff at colleges and universities throughout the United States to discuss all issues of public concern without threat of condemnation or penalty.

Yours sincerely,

A handwritten signature in black ink that reads 'B. Baron' followed by a long horizontal flourish.

Beth Baron
MESA President
Professor, City University of New York

A handwritten signature in black ink that reads 'Amy W. Newhall' in a cursive style.

Amy W. Newhall
MESA Executive Director
Associate Professor, University of Arizona

cc:

Representative Peter Roskam (peter.roskam@mail.house.gov)

Representative Kevin McCarthy, House Majority Leader
(kevin.mccarthy@mail.house.gov)

Representative Nancy Pelosi, House Minority Leader (nancy.pelosi@mail.house.gov)

Representative Bob Goodlatte, Chair, House Committee on the Judiciary
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Representative John Kline, Chair, House Committee on Education and the Workforce
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