



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

September 13, 2022

Eve Troutt Powell
MESA President
Professor, University of Pennsylvania
1957 E Street NW, Suite 401
Washington, DC 20052

Laurie Brand
Chair, Committee on Academic Freedom
Professor Emerita, University of Southern California
1957 E Street NW, Suite 401
Washington, DC 20052

Dear President Powell and Chair Brand:

Thank you for your June 27, 2022, letter related to Executive Order 13899, Combating Anti-Semitism.¹ In your letter, you request that the Department of Education's (Department) Office for Civil Rights (OCR) refrain from relying on or referring to the International Holocaust Remembrance Alliance (IHRA) definition of anti-Semitism and the "Contemporary Examples of Anti-Semitism," as referenced in Section 2 of the Executive Order, in drafting a proposed regulation.

The Department is fully committed to ensuring that the civil rights of all students, including Jewish students, are protected, consistent with President Biden's commitment to combat antisemitism. As you know, the laws OCR enforces protect all students from discrimination on the basis of race, color, national origin, sex, disability, and age. While none of the laws that OCR enforces expressly addresses religious discrimination, Title VI of the Civil Rights Act of 1964 protects students of any religion from discrimination, including harassment, based on a student's actual or perceived (1) shared ancestry or ethnic characteristics, or (2) citizenship or residency in a country with a dominant religion or distinct religious identity.²

As OCR previously explained in its January 19, 2021, *Questions and Answers* document, OCR has implemented the Executive Order, which did not impose new requirements on how OCR handles complaints of discrimination involving antisemitism.³ For example, OCR can and does investigate

¹ E.O. 13899, *Combating Anti-Semitism*, 84 Fed. Reg. 68779 (Dec. 11, 2019), <https://www.federalregister.gov/documents/2019/12/16/2019-27217/combating-anti-semitism>.

² See, e.g., OCR, *Dear Colleague Letter: Religious Discrimination* (Sept. 2004), <https://www2.ed.gov/about/offices/list/ocr/letters/religious-rights2004.pdf>; OCR, *Dear Colleague Letter: Harassment and Bullying* (Oct. 2010), <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201010.html> (pages 5-6); OCR, *Know Your Rights Fact Sheet: Title VI and Religion* (Jan. 2017), <https://www2.ed.gov/about/offices/list/ocr/docs/know-rights-201701-religious-disc.pdf>.

³ See OCR, *Questions and Answers on Executive Order 13899 (Combating Anti-Semitism) and OCR's Enforcement of Title VI of the Civil Rights Act of 1964* (Jan. 19, 2021) (Question 5) (OCR's "enforcement approach is consistent with the

complaints that students were subjected to ethnic or ancestral slurs; harassed for how they look, dress, or speak in ways linked to ethnicity or ancestry (e.g., skin color, religious attire, language spoken); or stereotyped based on perceived shared ancestral or ethnic characteristics. Consistent with the Executive Order, OCR will continue to investigate allegations of discrimination within our jurisdiction, including incidents involving Jewish students, as required by the applicable Title VI legal framework.⁴ In doing so, OCR will remain cognizant that Title VI protects students from invidious discrimination and does not regulate the content of speech, and that OCR enforcement must comport with the United States Constitution's First Amendment.⁵

OCR's website features a [variety of resources](#) and policy guidance, both recent and longstanding, to help educate the public on the importance of educational environments free from discrimination, including discrimination based on shared ancestry and religion. In addition, OCR's new virtual "binders" for [elementary and secondary schools](#) and [postsecondary institutions](#) include a section on religious and shared ancestry discrimination, including OCR fact sheets on combating discrimination against [Jewish](#) students and [Muslim, Arab, Sikh, and South Asian](#) students.

Thank you for your commitment to providing all students a supportive and safe learning environment that is free from discrimination.

Sincerely,



Catherine E. Lhamon
Assistant Secretary for Civil Rights

Executive Order"), <https://www2.ed.gov/about/offices/list/ocr/docs/qa-titleix-anti-semitism-20210119.pdf>; *see also id.* (Question 8) (Executive Order was issued to apply "the Department's longstanding policy that Title VI should be enforced against prohibited forms of discrimination rooted in anti-Semitism" to others).

⁴ *See id.* (Question 5).

⁵ *See id.* (Question 7); *see also, e.g., Dear Colleague Letter: First Amendment* (July 28, 2003), www.ed.gov/ocr/firstamend.html; *Racial Incidents and Harassment Against Students at Educational Institutions: Investigative Guidance*, 59 Fed. Reg. 11,448 (Mar. 10, 1994), www.ed.gov/ocr/docs/race394.html ("In cases in which verbal statements or other forms of expression are involved, consideration will be given to any implication of the First Amendment to the United States Constitution.").