



**Middle
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June 4, 2018

The Honorable Chuck Grassley
Chair, Senate Committee on the Judiciary
senator@grassley.senate.gov

The Honorable Diane Feinstein
Ranking Member, Senate Committee on the Judiciary
senator@feinstein.senate.gov

The Honorable Bob Goodlatte
Chair, House Judiciary Committee
bob.goodlatte@mail.house.gov

The Honorable Jerrold Nadler
Ranking Member, House Judiciary Committee
jerrold.nadler@mail.house.gov

Dear Senators and Representatives,

We write on behalf of the Middle East Studies Association of North America (MESA) and its Committee on Academic Freedom to express our grave concern about the “Anti-Semitism Awareness Act of 2018,” introduced in the House as H.R.5924 and in the Senate as S.2940. We commend the bill’s sponsors for their desire to combat discrimination and harassment against Jewish, Muslim, Sikh and other students on U.S. college campuses, and we emphatically agree that no student should be subjected to discrimination or harassment based on ethnic, racial or religious heritage or identity. However, we believe that some of the provisions of this bill may threaten constitutionally protected free speech and

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 2,500 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 North America and elsewhere.

Section 3 (1) of the “Anti-Semitism Awareness Act of 2018” would require the Department of Education to use the definition of anti-Semitism set forth by the State Department’s Special Envoy to Monitor and Combat Anti-Semitism (<https://2009-2017.state.gov/j/drl/rls/fs/2010/122352.htm>) when considering whether an instance of threat, harassment or intimidation against Jewish students on college campuses constitutes a violation of Title VI of the Civil Rights Act of 1964. However, the subsequent clause goes on to expand that definition of anti-Semitism so as to specifically include the examples set forth in a State Department Fact Sheet dated June 10, 2010, under the rubrics “Contemporary Examples of Anti-Semitism” and “What is Anti-Semitism Relative to Israel?” (<https://2009-2017.state.gov/j/drl/rls/fs/2010/122352.htm>).

Many of the examples provided in that Fact Sheet clearly conflate criticism of Israeli actions and policies, and of Zionism as a political ideology, with anti-Semitism. By embracing them, the bill would require the Department of Education to deploy a very broad and vague definition of anti-Semitism which could have a chilling effect on teaching about, and public discussion of, the Israeli-Palestinian conflict on college



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and university campuses. It would, in fact, likely have the perverse effect of defining as anti-Semitism criticisms of Israel or of Zionism advanced by Israeli or American Jewish scholars, or by some of the Jewish students this legislation is ostensibly designed to protect.

Passage of this bill could induce colleges and universities seeking to avoid investigation and possible sanction by the Department of Education to adopt measures that limit or suppress the unfettered expression of the full range of views on the Israeli-Palestinian conflict, and advocacy for particular perspectives on it. We call your attention to the fact that Kenneth Stern, the lead author of the State Department's original narrower definition of anti-Semitism, has, in testimony before Congress and elsewhere, opposed this and earlier bills that conflate criticism of Israel with anti-Semitism, and has argued that they are inappropriate for college and university settings where they may threaten free speech rights and academic freedom. We see such efforts to unduly expand the definition of anti-Semitism to include legitimate, constitutionally protected criticism of Israel as part of a broader campaign by organizations based outside of academia to use the power of the federal government in order to silence opinions and advocacy with which they disagree.

We share the concern of the sponsors and supporters of this bill about the rising tide of racism, xenophobia, and anti-Semitism in the United States. Combatting anti-Semitism and all other forms of racism, bigotry and discrimination is an essential duty for colleges and universities, but the definition of anti-Semitism that this bill would enshrine in law is deeply flawed. All political speech, including criticism of any government or ideology and advocacy for any group's rights, is, and must remain, constitutionally protected in the United States. At our institutions of higher education this constitutional protection must be accompanied by a rigorous respect for the standards and traditions of academic freedom.

We therefore urge you and your colleagues to reject this bill. We further urge you to protect and enhance the right of students, faculty and staff at colleges and universities throughout the United States to address all issues of public concern without threat of official or institutional sanction.

Sincerely,

A handwritten signature in black ink, appearing to read 'Judith E. Tucker', written in a cursive style.

Judith E. Tucker
MESA President
Professor, Georgetown University

A handwritten signature in black ink, appearing to read 'Amy W. Newhall', written in a cursive style.

Amy W. Newhall
MESA Executive Director