



**Middle
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27 June 2022

Hon. Catherine Lhamon
Assistant Secretary for Civil Rights
Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue, S.W., 4th Floor
Washington, D.C. 20202
Catherine.Lhamon@ed.gov

Dear Assistant Secretary Lhamon:

We write on behalf of the Middle East Studies Association of North America (MESA) and its Committee on Academic Freedom to urge the Department of Education's Office of Civil Rights (OCR) to refrain from in any way relying on or referring to the International Holocaust Remembrance Alliance (IHRA) definition of anti-Semitism and the "Contemporary Examples of Anti-Semitism" that accompany it in the draft rule it is currently formulating in order to implement Section 2 of [Executive Order 13899](#), issued by former President Trump on 11 December 2019. Grounding the final version of the regulation in this flawed, indeed incoherent, definition of anti-Semitism, and especially the egregious examples that accompany it, would constitute a serious threat both to academic freedom and to the First Amendment right of free speech at this country's institutions of higher education.

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 over 2,800 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 are of course deeply distressed by the rising tide of racism, xenophobia and anti-Semitism in the United States, and we firmly believe that combatting anti-Semitism and all other forms of racism, bigotry and discrimination is an essential duty for colleges and universities. However, in a [letter](#) dated 12 December 2019 criticizing President Trump's executive order, we pointed out that "[m]any of those 'Contemporary Examples' conflate criticism of Israeli actions and policies, and of Zionism as a political ideology, with anti-Semitism. The deployment of such a broad, vague and flawed definition of anti-Semitism by government agencies threatens the constitutionally protected right to free speech and may have a chilling effect on teaching about, and public discussion of, the Israeli-Palestinian conflict on college and university campuses, thereby undermining the academic freedom so vital to the mission of our institutions of higher education. It could also, we note, 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 executive order is ostensibly intended to protect."

We further noted in that letter that Executive Order 13899 was issued "at a time when the Department of Education is already engaged in what must be understood as politically motivated and spurious investigations of alleged anti-



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Semitism on college campuses, apparently intended to silence criticism by faculty, students and staff of certain policies of the government of Israel.” We suggested that it was “not difficult to imagine how this executive order 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.”

As we also noted in that letter, “our institutions of higher education are already facing what appears to be an orchestrated campaign by groups based outside of academia that seek to delegitimize and stifle scholarship and teaching with which they disagree – a campaign which this executive order seems cynically designed to encourage.” We must ask, therefore, why an administration which has sought to distance itself from, or repudiate, many of the pernicious policies of its predecessor would choose to perpetuate the threat to academic freedom and free speech posed by this executive order by incorporating its most egregious provision – its embrace of the IHRA definition of anti-Semitism and its “Contemporary Examples” – into federal civil rights regulations. All the more so as scholars and others have formulated much more coherent, reasonable and productive ways of distinguishing between anti-Semitism, on the one hand, and criticism of Israel and of Zionism, on the other: for example, the [Jerusalem Declaration on Antisemitism](#) and the [report](#) developed by the Association for Jewish Studies Task Force on Antisemitism and Academic Freedom.

MESA’s board of directors is already on [record](#) as urging “federal, state, provincial, and local governments of the United States and Canada, and university and college administrations, to refrain from adopting, or making policy on the basis of, the IHRA’s accompanying examples, many of them deeply flawed.” We therefore call on the Department of Education and its Office for Civil Rights to refrain from using Section 2 of President Trump’s executive order as a basis for enforceable civil rights regulations that may severely undermine academic freedom and free speech at this country’s colleges and universities.

Sincerely,

A handwritten signature in black ink that reads 'Eve M. Troutt Powell'.

Eve Troutt Powell
MESA President
Professor, University of Pennsylvania

A handwritten signature in black ink that reads 'Laurie A. Brand'.

Laurie Brand
Chair, Committee on Academic Freedom
Professor Emerita, University of Southern California



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cc:
Deputy Assistant Secretary for Policy Monique Dixon
Program Legal Director Alejandro Reyes
Anne Hoogstraten