

HIGHER EDUCATION INFORMATION MEMO

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OCR Issues Dear Colleague Letter on Antisemitism

On May 25, 2023, the United States Department of Education's Office for Civil Rights (OCR) released a [Dear Colleague Letter](#) (DCL) "as part of the Department's launch of an Antisemitism Awareness Campaign" described in the Biden-Harris Administration's [U.S. National Strategy to Counter Antisemitism](#) dated the same day. The DCL specifically notes the "nationwide rise in reports of antisemitic harassment, including in schools," and reiterates the applicability of Title VI in this context. Title VI prohibits discrimination based upon race, color, or national origin by higher education institutions (IHEs) receiving federal financial assistance, and this protection from discrimination extends to students who experience discrimination, including harassment, based upon their actual or perceived: (i) shared ancestry or ethnic characteristics; or (ii) citizenship or residency in a country with a dominant religion or distinct religious identity. Therefore, students who are or are perceived to be Jewish are protected under this basis, and the DCL cautions that IHEs and K-12 "[s]chools must take immediate and appropriate action to respond to harassment that creates a hostile environment for these students."

The DCL explains that the Department may find a hostile environment when "there is harassing conduct that is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the services, activities, or privileges provided by a school." Further, the applicable legal standard requires the school or institution to take "prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent harassment from recurring" whenever it "knew or should have known of the hostile environment." Specifically, the DCL notes, "a school violates Title VI when it fails to take adequate steps to address discriminatory harassment, such as antisemitic harassment."

OCR also includes examples of complaints it may investigate in this context, including when "students have been 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."

This DCL follows OCR's release of a related [Fact Sheet](#) earlier in the year. The [Biden-Harris National Strategy](#) described above also contains directives for institutions "to treat antisemitism with the same seriousness as other forms of hate," and "to ensure efforts to prevent and address antisemitism are integrated into their DEIA programs, including into mandatory trainings on discrimination and harassment."

IHEs should revisit their anti-discrimination and harassment policies to ensure Jewish students are included and incorporate antisemitism into their campus training. If you have any questions on how this DCL applies to your institution, please reach out to [Lisa Feldman](#), [Seth Gilbertson](#), [Sandra Casey](#) or any attorney in Bond's [higher education](#) practice with whom you are in regular contact.

