



Oppose S. 852 That Would Stifle Campus Free Speech on Palestine/Israel

The US Campaign for Palestinian Rights (USCPR), a national coalition of hundreds of groups working towards freedom, justice, and equality, **strongly urges members of Congress not to cosponsor or vote for S. 852. We agree with our colleagues at Jewish Voice for Peace that the bill**, misleadingly titled the “Anti-Semitism Awareness Act of 2019,” **would be more accurately titled the “Silencing Students Act.”**

While the bill purportedly seeks to buttress the Department of Education’s (ED) investigations into acts of anti-Jewish bigotry on college campuses, **it adds no new protections for Jewish students.** As [Palestine Legal](#) explains, **“this bill would likely be used to justify federal investigations into Palestine activism on campuses.”** If enacted, the effect of the legislation would be to shut down First Amendment-protected political speech critical of Israel and its human rights violations against Palestinians.

- 1) **S. 852, in similar fashion to a nearly-identical bill that failed in the 115th Congress due to First Amendment concerns, cites an overly-broad definition of antisemitism that conflates anti-Jewish hatred with criticism of Israel. This undermines real and necessary efforts to combat antisemitism and silences speech for Palestinian rights.**
 - a) **The new iteration of S. 852 merely updates terminology from the prior bill and poses a similar threat to First Amendment-protected speech for Palestinian rights.** In the 115th Congress, the American Civil Liberties Union (ACLU) [stated](#) that **“the proposed bill risks chilling constitutionally protected speech by incorrectly equating criticism of Israel with antisemitism ... We worry that the law will lead colleges to suppress speech, especially if the Department of Education launches investigations simply because students have engaged in speech critical of Israel.”**
 - b) S. 852 cites the International Holocaust Remembrance Alliance’s (IHRA) definition of antisemitism, whereas the prior version of the bill referenced the closely related 2010 “State Department definition” [from which the IHRA definition was derived](#). The 2010 State Department definition, adopted to monitor acts of antisemitism abroad, was never intended to guide investigations of anti-Jewish bigotry domestically on college campuses. Even **the definition’s lead author called using the definition on college campuses “an ill-advised idea that will make matters worse, and not only for Jewish students; it would also damage the university as a whole.”**
 - c) **The IHRA definition in S. 852 is commonly used by groups opposed to Palestinian rights as a basis to shut down campus social justice work. For example, censorship campaigns referencing the IHRA definition have targeted the following campus events:**
 - i) [A vigil organized by Jewish students](#) at UC Berkeley to mourn the deaths of Palestinian children killed in the Gaza Strip and Jews killed in the Pittsburgh massacre
 - ii) [The National Conference of Students for Justice in Palestine](#) at UCLA ([complaint](#))
 - iii) [An event entitled We Will Not Be Silenced: The Academic Repression of Israel’s Critics](#) at San Jose State University

- d) As a coalition bound by [shared anti-racism and anti-bigotry principles](#), and at a time when the rise of the global far-right means people who are Black, of color, Muslim, Jewish, LGBTQIA, immigrant, or otherwise marginalized for their identity are under increasing threat, we hold that it is imperative for elected officials to take meaningful stances against antisemitism and not undermine real efforts to combat it through repressive false accusations, including those encouraged by S. 852.
- 2) **S. 852 is part of the Trump administration’s agenda to shut down First Amendment-protected speech for social justice that is critical of human rights abuses, including those against the Palestinian people.**
- a) Organizations opposed to Palestinian rights have pressured the ED into launching numerous Title VI investigations into the speech activity of Palestinian rights groups on campuses. **Prior to its new Trump administration appointments, the ED made multiple findings that advocacy for Palestinian human rights did not, as alleged, constitute harassment against Jewish students. These determinations [noted](#) that actions and speech promoting Palestinian rights “constitute expression on matters of public concern directed to the university community.”** If this bill were to become law, however, the ED would be more likely to find that such organizing is a violation of Title VI because it will be required to “take into consideration” a flawed definition of antisemitism. This finding could force universities to lose federal funding if they do not comply with the ED’s recommendations—including, presumably, a crackdown on Palestine organizing.
- b) **If passed, this legislation would embolden Trump appointee and longtime anti-Palestinian rights activist Kenneth Marcus, Assistant Secretary for Civil Rights of the Department of Education, to further attack free speech and undermine his office’s work for civil rights.** Marcus has a long history of filing spurious Title VI discrimination complaints with the ED designed to [intimidate, silence, and repress college students organizing](#) for Palestinian rights. As the former president of the Brandeis Center, Marcus either supported or himself filed the previously rejected complaints. Marcus would undoubtedly use the authority of this legislation to investigate what should be protected free speech. One of Marcus’s first acts in office was to [re-open](#) a seven-year old case against Rutgers, [abusing](#) the ED to attack free speech. Given Marcus’s record, it is clear he will use his office to ensure that any future complaints against Palestinian rights campus organizing would result in a Title VI violation against the offending university.
- c) **Marcus was appointed to advance the Trump administration’s unconstitutional attempts to quash organizing for Palestinian rights on college campuses.** The [Trump campaign’s Israel Advisory Committee](#) explained that: **“the Trump administration will ask the Justice Department to investigate coordinated attempts on college campuses to intimidate students who support Israel.”** This committee was co-chaired by right-wing defenders of Israel’s human rights abuses, including illegal Israeli settlements: Jason Greenblatt, the president’s Special Representative for International Negotiations, and David Friedman, U.S. ambassador to Israel.
- d) **Marcus has explicitly acknowledged his intent to chill First Amendment-protected speech** in an [article](#) he wrote in the *Jerusalem Post*: “We are, in fact, comforted by knowing that we are having the effect we had set out to achieve,” he wrote. “These cases—even when rejected—expose administrators to bad publicity...Israel haters now publicly complain that these cases make it harder for them to recruit new adherents...Needless to say, getting caught up in a civil rights complaint is not a good way to build a resume or impress a future employer.” **Members of Congress should oppose S. 852 to protect students’ First Amendment rights and challenge unconstitutional right-wing efforts to repress campus social justice work.**