

United States Senate

WASHINGTON, DC 20510

November 30, 2023

VIA ELECTRONIC DELIVERY

The Honorable Miguel Cardona
Secretary
U.S. Department of Education
400 Maryland Ave., SW
Washington, D.C. 20202

Dear Secretary Cardona:

We are deeply concerned that the Department of Education (Department) is not ensuring American K-12 schools are fostering a safe learning environment for all students following the terrorist organization Hamas' violent attack on civilians, including Americans and Israeli citizens. We write to urgently inquire what your Department is doing to enforce Title VI of the Civil Rights Act of 1964 and to ensure students are not subjected to discrimination based on race, color, or national origin.

On October 7, 2023, Hamas terrorists murdered over 1,200 civilians and took over 240 civilians hostage, including Americans. As children continue to grapple with the aftermath of this violence, incidents of antisemitic violence are picking up in our K-12 schools. Antisemitism in high schools is uniquely concerning as teenagers are particularly impressionable, deeply affected by the social dynamics of their peers and by the authority of their teachers.¹ Young students are still developing emotionally and are less equipped to handle and process incidents of antisemitism, making recent reports all the more concerning.

On October 18, 2023, students in San Francisco marched through the hallways of their high school chanting antisemitic slogans.² Shortly after the October 7th attack, an 11-year-old in Manhattan Beach told four Jewish girls at his school that "all Israelis and Jews should be killed."³

Imagine a parent of a Jewish student learning of such incidents. Parents should feel confident that their children's school will be safe and the focus will be on education. Instead, parents are

¹ Adam Milstein, *What about antisemitism in our high schools?*, The Jerusalem Post (September 13, 2022), <https://www.jpost.com/opinion/article-717053>.

² Julianna Frieman, *Video Of San Francisco High Schoolers Chanting Antisemitic Slogan Goes Viral Amid Israel-Hamas Firestorm*, Daily Caller (October 20, 2023), <https://dailycaller.com/2023/10/20/san-francisco-high-schoolers-antisemitic-slogans/>.

³ Hal Eisner, *Manhattan Beach student allegedly told Jewish classmates 'all Israelis and Jews should be killed'*, Fox 11 (October 23, 2023), <https://www.foxla.com/news/manhattan-beach-student-allegedly-told-jewish-classmates-all-israelis-and-jews-should-be-killed>.

beginning to fear that not only is school not safe for their students, but school officials are actively working to undermine the safety of their children. Parents cannot trust their students are safe if they fear school officials are key perpetrators in spreading antisemitic rhetoric. On October 9, 2023, the Superintendent of Revere Public Schools in Massachusetts sent an email to school staff promoting resources that claimed, "Israeli terrorism has been significantly worse than that of the Palestinians."⁴ On October 17, 2023, a New York City middle school teacher and a United Federation of Teachers' (UFT) school representative sent an email to union members deriding the UFT's official statement denouncing the October 7th attack and calling on the unions' retirement system to "divest from weapons and other companies that are complicit in violations of Palestinians' civil and land rights."⁵ The email also promoted the pro-Palestine protest in Washington Square Park later that day where protestors burned Israeli flags and chanted "Allahu Akbar."⁶

This type of harassment and intimidation is unacceptable and particularly troubling in K-12 schools. Younger students often have little choice in where they attend traditional public school, meaning there are ultimately fewer avenues for recourse. The difficult decision to switch schools due to an unsafe environment can be traumatic for a child and could involve moving to a different neighborhood or a lengthy battle with school district officials to be given a waiver to leave their assigned school. The process of switching schools is difficult for parents and could take years, all while their student could be in an unsafe environment.

Unfortunately, these incidents are not a new phenomenon as antisemitic incidents have surged in K-12 schools long before the October 7th attack. In 2022, 494 incidents of antisemitism were reported in non-Jewish K-12 schools, a 49 percent increase compared to 2021.⁷ In fact, the growing rate of antisemitic incidents in educational facilities outpaced that of such incidents in the country at large.

The rise in antisemitic incidents is a symptom of growing antisemitism amongst our nation's young people who are a product of our K-12 education system. Less than half of Gen Z and millennials believe the U.S. should publicly voice support of Israel compared with 63 percent of Gen X, 83 percent of baby boomers, and 86 percent of members of the Silent Generation.⁸ Over

⁴ Incidents, *Immediately after attack on Israel, Revere Public Schools superintendent sends email to staff promoting resource that claims "Israeli terrorism has been significantly worse than that of the Palestinians,"* Parents Defending Education (October 11, 2023), <https://defendinged.org/incidents/revere-public-schools-superintendent-sends-email-to-staff-promoting-resource-that-claims-israeli-terrorism-has-been-significantly-worse-than-that-of-the-palestinians/>.

⁵ Gabe Kaminsky, *Israel War: NYC School Union Head Justifies Hamas Attack in 'Private' Email to Teachers*, Washington Examiner (October 25, 2023), <https://www.washingtonexaminer.com/policy/education/israel-war-nyc-school-union-email-judi-cheng>.

⁶ Stephen M. Lepore, *Pro-Palestine and Israel Protestors Clash in NYC's Washington Square Park as Flags Are Lit on Fire and Chants of 'Allahu Akbar' Emerge*, Daily Mail (October 17, 2023), <https://www.dailymail.co.uk/news/article-12642847/NYC-Washington-Square-Park-protest-Israel-Palestine-Hamas-war-flags-fire-cops.html>.

⁷ Press Release, *U.S. Antisemitic Incidents Hit Highest Level Ever Recorded, ADL Audit Finds*, ADL (March 23, 2023), <https://www.adl.org/resources/press-release/us-antisemitic-incidents-hit-highest-level-ever-recorded-adl-audit-finds>.

⁸ Domenico Montanaro, *Americans Strongly Support Israel, but There Are Generational and Racial Divides*, NPR (October 13, 2023), <https://www.npr.org/2023/10/13/1205627092/american-support-israel-biden-middle-east-hamas-poll>.

half of voters under the age of 35 do not support sending weapons and military equipment to Israel in response to the Hamas terrorist attack, compared with 77 percent of those 50 and over.⁹ A Generation Lab poll of two- and four-year college students found that 48 percent of college students who say they are aware of the October 7 attack do not blame that attack on Hamas.¹⁰

We must understand what role public K-12 schools are playing in furthering these sentiments. Since October 7, dozens of targeted attacks have occurred on college campuses, including reported vandalism, arson, and even professors taking discriminatory actions in their classroom based on a student's status as a member of a protected class. While these polls focus on young people ages 18 and over, it is hard to believe these antisemitic tendencies began when they arrived at college. This prompts concerns that these tendencies might be taking root in K-12 schools.

Examples are continuing to surface of K-12 teachers using materials that perpetuate antisemitism. There is a trend of school districts establishing courses under the guise of "ethnic studies" that are aimed to force a political agenda on students and that uniquely target Jews, alleging that all Jews are white or "white adjacent" and illegally occupy Israel.¹¹ The Zinn Education Project, whose history curriculum is used by 155,000 teachers, declared that the October 7th attack was "the direct result of decades of Israeli occupation."¹²

America's K-12 schools must be a safe learning environment for all students. School officials are supposed to be the adults in the school building. They should be setting an example for our students and ensuring a safe learning environment rather than undermining it.

As you are aware, any harassment or the creation of a hostile environment for students is unacceptable and invokes the responsibility of the Department to uphold Title VI of the Civil Rights Act of 1964. Title VI states, "No person in the United States shall, on the basis of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."¹³

In May 2023, Assistant Secretary for Civil Rights Catherine Lhamon wrote that "the protection offered by Title VI ... extends to students who experience discrimination, including harassment,

⁹ Poll Release, *85% Of Voters Concerned Israel - Hamas War Will Escalate into A Wider War in The Middle East, Quinnipiac University National Poll Finds; Approval For Building Border Wall With Mexico Reaches Record High*, Quinnipiac University (October 17, 2023), <https://poll.qu.edu/poll-release?releaseid=3880>.

¹⁰ Mark Murray, *Poll of U.S. College Students Finds Most Blame Hamas for attack on Israel*, NBC News (October 17, 2023), <https://www.nbcnews.com/meet-the-press/meetthepressblog/poll-us-college-students-finds-blame-hamas-attack-israel-rcna120833>.

¹¹ Resources, *5 Things to Know About Ethnic Studies*, Parents Defending Education (n.d.), <https://defendinged.org/resources/5-things-to-know-about-ethnic-studies/>.

¹² Tweet Message, Zinn Education Project (October 10, 2023), <https://twitter.com/ZinnEdProject/status/1711789447333745023>.

¹³ 42 USC 2000d

based on ... (i) shared ancestry or ethnic characteristics; or (ii) citizenship or residency in a country with a dominant religion or distinct religious identity.”¹⁴

Additionally, on November 7, 2023, your office released a Dear Colleague letter in which you state, “The Department of Education’s Office for Civil Rights (OCR) stands ready to support schools in fulfilling this promise and to ensure every student’s right to learn without discrimination.”¹⁵ While we are pleased to see your renewed attention to this issue, listening sessions and working groups are not in alignment with the appropriate actions outlined in Title VI of the Civil Rights Act of 1964. It is time to live up to those obligations.

Some schools seem unwilling or unable to uphold their legal obligations under Title VI. Therefore, the Department should use its full resources to enforce the law. To assist us in our oversight and legislative duties, we request a briefing to be scheduled no later than December 14, 2023 to discuss:

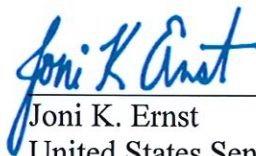
1. The Department’s plan to promptly move the Antisemitism Awareness Campaign forward in the face of increased, brazen antisemitism at educational institutions across the country;
2. Technical assistance or guidance provided to states and school districts on how to maintain safe learning environments;
3. Data about antisemitic-related or other subgroup complaints specifically at the K-12 school-level into the Office for Civil Rights (OCR);
4. Whether OCR has begun any compliance reviews based on harassment or violence complaints in K-12 schools; and
5. Whether OCR has undertaken any directed investigations based on news reports of harassment or violence in K-12 schools.

We look forward to an update regarding your efforts on the Antisemitism Awareness Campaign and broader enforcement of Title VI to ensure the Department and K-12 schools receiving Federal funds protect Jewish students in the same capacity as other legally-protected classes.

Sincerely,



Bill Cassidy, M.D.
Ranking Member
U.S. Senate Committee on Health,
Education, Labor, and Pensions



Joni K. Ernst
United States Senator

¹⁴ Dear Colleague Letter from Assistant Sec’y for C.R., Catherine Lahmon (May 25, 2023), <https://www2.ed.gov/about/offices/list/ocr/docs/antisemitism-dcl.pdf>.

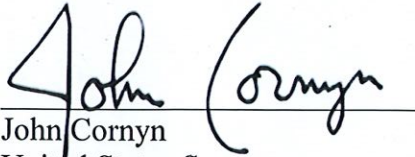
¹⁵ Dear Colleague Letter from Assistant Sec’y for C.R., Catherine Lahmon (May 25, 2023), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-202311-discrimination-harassment-shared-ancestry.pdf>



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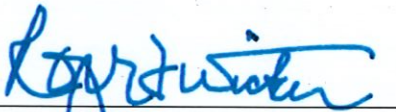
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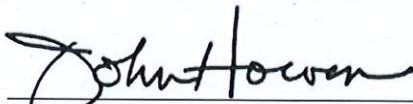
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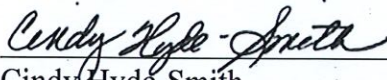
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