

**Congress of the United States**  
**Washington, DC 20515**

July 8, 2010

The Honorable Arne Duncan  
Secretary, U.S. Department of Education  
400 Maryland Avenue Southwest  
Washington, DC 20202-0008

Dear Secretary Duncan,

The Congressional Taskforce Against Anti-Semitism recently hosted a briefing to provide an overview to members of Congress and Congressional staff on recent incidents of anti-Semitic harassment on college campuses and how the federal government has responded to date. We write to you to bring attention to a serious matter that arose during the briefing, regarding how the Department of Education's Office for Civil Rights (OCR) is enforcing Title VI of the *Civil Rights Act of 1964*.

On October 11, 2004, the Zionist Organization of America (ZOA) filed a complaint with OCR alleging that the University of California-Irvine (UCI) had failed to promptly and adequately respond to the complaints of Jewish students who had experienced severe and persistent anti-Semitic intimidation and harassment on campus. The complaint contended that UCI should be subject to investigation and penalties under Title VI of the *Civil Rights Act*. As you well know, Title VI prohibits discrimination on the basis of race, color or national origin in programs and activities receiving federal financial assistance.

On November 30, 2007, following its investigation, OCR ruled that many of these allegations were beyond the scope of OCR's authority under Title VI because these alleged incidents of harassment and intimidation were not based on the students' national origin. While we're pleased that OCR conducted an investigation of these incidents, we are concerned that OCR did not exercise jurisdiction. The incidents were based on the students' ancestry or ethnic characteristics, rather than their religious identity, and thus fell within the scope of OCR's jurisdiction under Title VI. We are also concerned because we believe that OCR's ruling is inconsistent with its own policy statements for enforcing Title VI as expressed in recent years.

In 2004, OCR issued two policy statements clarifying its intent to enforce Title VI in instances of discrimination against groups that exhibit both religious and ethnic/racial characteristics, such as Jews, Arab Muslims, and Sikhs. OCR determined that while individuals in such groups share a common religion, they also share a common ancestry and heritage that entitle them to the protections afforded under Title VI of the *Civil Rights Act*. At that time, OCR acknowledged that there are "students who may be targeted for harassment based on their membership in groups that exhibit both ethnic and religious characteristics. . . Groups that face discrimination on the basis of shared ethnic characteristics may not be denied the protection of our civil rights laws on the ground that they also share a common faith."

OCR has played a critical role in reducing intolerance, harassment and discrimination against students on college campuses across the country. However discrimination against Jewish students remains a

significant and disturbing problem on some campuses. According to Anti-Defamation League surveys, while anti-Semitic incidents are generally decreasing in the United States, anti-Semitic incidents on college campuses have been on the rise. It is also reasonable to assume that the number of incidents is actually higher than what these surveys reflect, since incidents of harassment, intimidation or discrimination may not be reported.

College campuses in the United States are meant to be positive, safe and open forums for intellectual expression, conducive to learning. We believe that enforcing Title VI to protect Jewish students who, in rare but highly significant situations, face harassment, intimidation or discrimination based on their ancestral or ethnic characteristics – including when it is manifested as anti-Israel or anti-Zionist sentiment that crosses the line into anti-Semitism – would help ensure that we’re preserving the integrity of our higher education system by affording the same protection to all ethnic and racial groups on our college campuses.

We were pleased to learn that you are working with several community organizations that have also expressed their concern over this issue. We would appreciate your clarification of OCR’s investigations and enforcement authority to remedy instances of harassment, discrimination, and intimidation against Jewish students. We thank you for your attention to this matter and we look forward to hearing from you before the start of the new school year on our request.

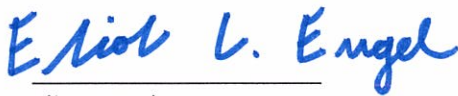
Sincerely,



Ron Klein  
Member of Congress



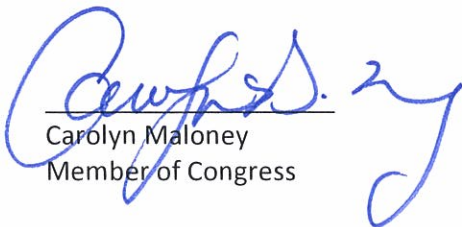
Mike Pence  
Member of Congress



Eliot Engel  
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Chris Smith  
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Carolyn Maloney  
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Shelley Berkley  
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Gary Ackerman  
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Ted Deutch  
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Keith Ellison  
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Alcee L. Hastings  
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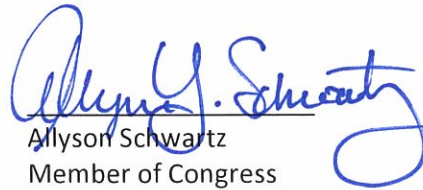
Brad Sherman  
Member of Congress



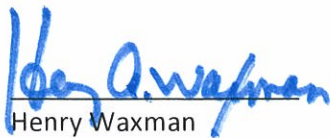
Kendrick Meek  
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Ileana Ros-Lehtinen  
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Allyson Schwartz  
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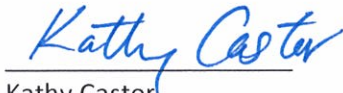
Henry Waxman  
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John Adler  
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Alan Grayson  
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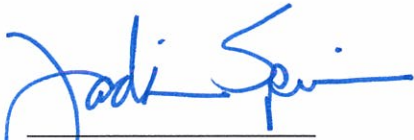
Kathy Castor  
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Sheila Jackson Lee  
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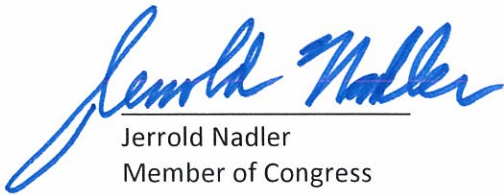
Steve Israel  
Member of Congress



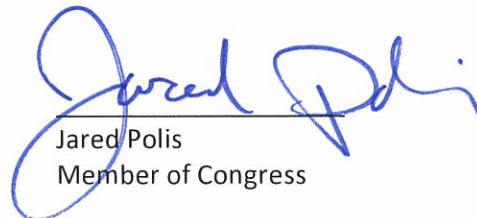
Steve Kagen  
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Doug Lamborn  
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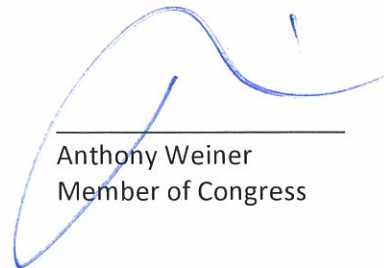
Jerrold Nadler  
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Jared Polis  
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Michele Bachmann  
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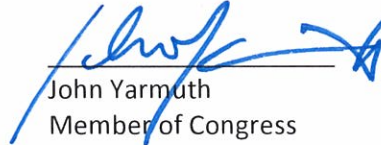
Sander Levin  
Member of Congress



Steve Rothman  
Member of Congress



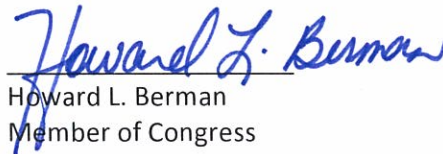
Buck McKeon  
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Adam Schiff  
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Howard L. Berman  
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