

United States Senate

December 13, 2023

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

Dear Secretary Cardona:

I write with significant concerns about rising antisemitism at institutions of higher education and the failure of college and university leadership to protect Jewish students from harassment and discrimination. Jewish Americans across the country were horrified by last week's hearing in the House Committee on Education and the Workforce, where three leading university presidents failed to unequivocally state that calling for the genocide of the Jewish people would inherently violate their schools' respective harassment policies or codes of conduct. In light of this disturbing testimony, and in order to protect students from antisemitic discrimination, I urge the Department of Education to undertake a comprehensive review of college and university harassment policies and codes of conduct to ensure that they comply with federal civil rights requirements for institutions of higher education.


As you are aware, on December 5th, members of the House Committee on Education and the Workforce posed several questions regarding campus antisemitism to the presidents of Harvard University, the University of Pennsylvania (Penn), and the Massachusetts Institute of Technology (MIT). When asked if "calling for the genocide of Jews" would constitute bullying or harassment under Penn's code of conduct, then-president Liz Magill answered that it was a "context-dependent decision" and that such a statement would be harassment if "the speech turns into conduct." The presidents of Harvard and MIT then gave similar, troubling answers to the same question. While all three presidents and their respective universities quickly went into damage control mode in the aftermath of the hearing – and one president even resigned her post – excuses and apologies don't change the fact that leaders of some of our nation's top schools refused to publicly acknowledge that calling for the genocide of Jews is harassment. This lack of moral clarity fails students across American college campuses.

According to the Anti-Defamation League, there have been over 400 antisemitic incidents on college and university campuses since Hamas' October 7 terrorist attack on Israel, compared with 33 antisemitic incidents during the same period last year. At a time when Jewish students are experiencing rising antisemitism, schools have a legal responsibility to protect their students from discrimination and harassment. I appreciate that last month, at my urging, the Department reminded school administrators of this responsibility and of the consequences that will follow if they fail to act. I also applaud the Department's implementation of the U.S. National Strategy to Counter Antisemitism, including the launch of an Antisemitism Awareness Campaign. However, last week's hearing is a stark reminder that far more work needs to be done to protect Jewish students on college campuses, including by ensuring their codes of conduct prohibit antisemitic

harassment and discrimination. As I discussed with Assistant Secretary Catherine Lhamon, just because a student has a First Amendment right to make a harassing statement does not relieve university administrators from their Title VI obligations to protect their students from such harassment.

With this in mind, I urge you to undertake a comprehensive review of college and university harassment policies and codes of conduct to ensure that they meet federal civil rights requirements for protecting students from prohibited harassment and discrimination, including antisemitic harassment and discrimination. Thank you for your attention to this important matter.

Sincerely,



JACKY ROSEN
United States Senator