



# COMMONWEALTH of VIRGINIA

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Superintendents and School Boards:

Our institutions have an obligation to uphold the laws of Virginia and the United States. This includes legal and moral duties to protect the civil rights of all students. For Jewish students, this means adopting the International Holocaust Remembrance Alliance's definition of antisemitism (IHRA definition) into your codes of conduct and discrimination policies.

On November 16, 2023, I wrote to college and university presidents about the “spasm of antisemitic protests, chants, and rage” on our campuses, the need for moral courage, and the obligations to act when behavior goes beyond the bounds of the First Amendment.<sup>1</sup> Since then, we have witnessed the meteoric rise of already record levels of antisemitism. FBI statistics show that 1 in 7 hate crimes last year targeted the Jewish 2% of Americans.

Jewish students in Virginia have been excluded, harassed, threatened, and even assaulted. As Governor Youngkin noted in May, “Hitler salutes, swastikas, inappropriate Holocaust and Jewish ‘jokes,’ and threats of violence against Jewish students often go ignored and uncorrected.”<sup>2</sup>

Moreover, our youngest children have been targeted with harassment as early as elementary school and our young adult leaders have faced hostile and even threatening environments in higher education. This discrimination often masks itself as “Anti-Zionism,” targeting the majority of Jews whose identity includes connection to the modern Jewish state of Israel and fellow Jews who live there, and connection to Mount Zion in the Jewish ancestral homeland. But normalized discrimination based on shared ancestry and ethnic characteristics is still illegal discrimination.<sup>3</sup>

On December 14, 2023, I wrote to remind you of obligations under Title VI of the Civil Rights Act of 1964, the Virginia Human Rights Act, and Chapter 471 of the Acts of Assembly of 2023.<sup>4</sup>

<sup>1</sup> <https://www.oag.state.va.us/media-center/news-releases/2645-november-16-2023-attorney-general-miyares-urges-virginia-college-and-university-presidents-to-address-rise-of-antisemitism-on-campuses>

<sup>2</sup> <https://www.governor.virginia.gov/media/governorvirginiagov/governor-of-virginia/pdf/EO-48-Combating-Antisemitism-and-Anti-religious-Bigotry-in-Virginia-Public.pdf>

<sup>3</sup> See *Shaare Tefila Congregation v. Cobb*, 481 U.S. 615, 617 (1987) (recognizing that Jews “constitute[] a group of people that Congress intended to protect”).

<sup>4</sup> <https://www.oag.state.va.us/media-center/news-releases/2656-december-14-2023-attorney-general-miyares-sends-letter-condemning-anti-semitism-in-k-12-schools>

Title VI requires your institutions to take measures reasonably calculated to remedy discriminatory hostile environments based on shared ancestry and ethnic characteristics, including those based on Jewish identity. And for such discrimination, the U.S. Department of Education has used the IHRA definition of antisemitism to enforce Title VI.<sup>5</sup> Indeed, the past three federal administrations have used the IHRA definition, including its contemporary examples, when assessing whether conduct is motivated by antisemitism.

Virginia law also requires use of the IHRA definition in the same way. In Chapter 471 of the Acts of Assembly of 2023, the General Assembly and Governor adopted the IHRA definition into law “as a tool and guide for training, education, recognizing, and combating antisemitic hate crimes or discrimination and for tracking and reporting antisemitic incidents.”<sup>6</sup> Thus, the law of the Commonwealth requires use of IHRA to “recognize” the discriminatory motive behind antisemitic conduct and act upon such discrimination findings pursuant to the Virginia Human Rights Act.<sup>7</sup>

No law can diminish or infringe on Constitutional free speech rights. Government actors such as yourselves cannot punish protected speech, even speech we find hateful and conspiratorial. Instead, you must comply with civil rights obligations within Constitutional bounds.<sup>8</sup>

But the law empowers you to act when such protected speech is paired with conduct. The Supreme Court has explained that racist, sexist, and antisemitic expression can be used as evidence of the motive behind unprotected activity.<sup>9</sup> And when determining discriminatory motive, the IHRA definition is an effective tool to identify both traditional antisemitic tropes and modern antisemitism that often involves demonization, delegitimization, or applying double standards against Israel.

The political branches of the Virginia and Federal governments have adopted the IHRA definition and its examples as a powerful tool to ensure our Jewish students have equal access to education. The U.S. Department of Education has published related resources.<sup>10</sup> My own office has worked with experts to provide middle and high school students with further resources to utilize this tool for education.<sup>11</sup> I encourage you to take advantage of these and other resources expanding on IHRA’s work to fight the scourge of antisemitism. These steps are a moral obligation.

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<sup>5</sup> <https://www.federalregister.gov/documents/2019/12/16/2019-27217/combating-anti-semitism> and as cited in notes 18 and 34 of <https://www.ed.gov/sites/ed/files/about/offices/list/ocr/letters/colleague-202405-shared-ancestry.pdf>

<sup>6</sup> <https://legacylis.virginia.gov/cgi-bin/legp604.exe?231+ful+CHAP0471+pdf> (emphasis added).

<sup>7</sup> 2023 Va. Acts \_\_\_ Ch. 471 (adopting the IHRA “non-legally binding working definition of antisemitism . . . including the contemporary examples set forth therein” for specific purposes). Full text available at [holocaustremembrance.com/resources/working-definition-antisemitism](http://holocaustremembrance.com/resources/working-definition-antisemitism).

<sup>8</sup> For example, the IHRA definition notes that mere criticism of Israel, similar to that leveled against any other country cannot be regarded as antisemitic. The IHRA definition appropriately demands more.

<https://holocaustremembrance.com/wp-content/uploads/2024/01/IHRA-non-legally-binding-working-definition-of-antisemitism-1.pdf>

<sup>9</sup> *Wisconsin v. Mitchell*, 508 U.S. 476, 489 (1993).

<sup>10</sup> <https://www.ed.gov/laws-and-policy/civil-rights-laws/race-color-and-national-origin-discrimination/race-color-and-national-origin-discrimination-key-issues/retaliation-race-color-and-national-0>

<sup>11</sup> <https://www.oag.state.va.us/media-center/news-releases/2894-august-6-2025-attorney-general-miyares-publishes-new-virginia-rules-resources-to-combat-antisemitism>

You also have legal obligations. As part of your compliance with Federal and Virginia law, you must implement the IHRA definition and its contemporary examples into your codes of conduct and discrimination policies to assess unprotected activity.

Following Governor Youngkin's Executive Order 48, Secretary of Education Aimee Guidera issued the attached model resolution to do just that.

I urge you to adopt the resolution as a compliance matter at your next meeting.

Sincerely,



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Attorney General of Virginia