

# Countering Antisemitism Act (CAA) - S. 4091/H.R. 7921

FACT SHEET



*Despite its purported aim to support the implementation of the Biden Administration's antisemitism strategy, the CAA raises significant legal and constitutional issues by requiring the government to actively engage in viewpoint discrimination and political repression. While considered an alternative to, or a more benign version of, the Antisemitism Awareness Act (AAA), the CAA is also dangerous to First Amendment protected speech. Both the AAA and CAA mandate the use of the International Holocaust Remembrance Alliance (IHRA) definition of antisemitism. The IHRA definition, originally written for data collection to measure antisemitism in Europe, embraces the idea that anti-Israel and anti-Zionist speech equates to antisemitism. With these bills, we have attempts in Congress to codify a politicized definition of antisemitism and to weaponize the federal government against individuals and groups who criticize the state of Israel or Zionism. Combatting antisemitism is both necessary and a worthy objective—neither the CAA or the AAA serve that admirable goal.*

## The CAA is a threat to our democracy.

- It **instructs Federal, State, and local agencies to use the IHRA definition**, effectively creating permanent speech police on college campuses and subjecting every American to potential government surveillance, arrest, or other adverse enforcement action and/or discrimination in their school, workplace, house of worship, online, in every aspect of an American's and their family's lives—based simply on their political views or speech critical of a foreign country or a political ideology.
- It **applies the IHRA definition to 32 different federal departments (all but the Department of Energy), independent agencies, and quasi-official government agencies**, including the FBI, U.S. Department of Homeland Security, National Counterterrorism Center, U.S. Department of Defense, U.S. Department of Education, and Equal Employment Opportunity Commission.
- It creates the position of **"National Coordinator to Counter Antisemitism" within the Executive Office of the President** to oversee its implementation across all of government.
- It creates a new **"Designee" position within the Office for Civil Rights (OCR) at the Department of Education** to deal exclusively with antisemitism as defined by the IHRA definition. By separating and elevating the Department's work on countering antisemitism, the CAA makes the mistake of politicizing the real danger of antisemitic discrimination in schools.
  - Robust mechanisms and safeguards already exist within the Department of Education to address all forms of hate on college campuses, including antisemitism.
  - There are ongoing Title VI cases at numerous universities demonstrating the Department of Education's commitment to upholding the civil rights of all students.
  - OCR already has a backlog of civil rights complaints, adding reports of discrimination based on political speech will deeply harm students who do experience discrimination on campuses, including students experiencing antisemitism.
  - Instead of flooding the overworked system with erroneous reports, policymakers should look to supporting OCR with much-needed additional funding.

- It creates a new **“Interagency Task Force to Counter Antisemitism,”** made up of individuals appointed by the President and include representatives from the 32 different agencies.
- It calls for the enforcement of Trump’s Executive Order 13899 **redefining antisemitism for Title VI purposes** within the Department of Education.
  - The former administration made clear the EO specifically used the IHRA definition to push the notion that “Anti-Zionism is anti-Semitism.”
  - By calling for a rule to formally adopt the IHRA definition in Title VI enforcement, the legislation threatens to suppress legitimate discourse on Israel and Zionism on college campuses, thus undermining academic freedom and stifling the free exchange of ideas.
- It requires a **classified annual threat assessment of “antisemitic violent extremism”** that includes an “overview of transnational violent extremist ideologies that include antisemitic components, including international and domestic extremism,” as well as “overview of propaganda facilitating the spread of those ideologies.”
  - This would lead to profiling and undue increased government targeting and surveillance, while also diverting needed resources from real dangers to public safety emanating from violent white supremacist movements.
  - The IHRA definition as a parameter for new threat assessments runs the risk of pulling any organization into the realm of “violent extremists” based on constitutionally protected political expression. Under this framework, civil society organization, including Arab American, Jewish American, Black American, and American Muslim groups, could be targeted as supporting bigotry or even, violence or terrorism.

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### ***The CAA allows government viewpoint discrimination and its enforcement.***

- Zionism is a political ideology, not a component of a religion, ethnicity, or any other protected class. Critics of Zionism are engaging in a form of political discourse that is integral to our democratic processes. In **mandating federal agencies enforce a definition of antisemitism that bans political discourse from an anti-Zionist viewpoint, the CAA requires that government agencies actively enforce viewpoint discrimination**, which occurs when government regulation restricts speech or expression based on the underlying views or opinion of that speech.
- Given the CAA extends its reach to the Department of Justice, it **sets a dangerous precedent by legitimizing and potentially codifying political viewpoints as prosecutable acts of hate**, infringing upon constitutionally protected freedoms of speech and expression. It also puts a protected class, Arab Americans, including Americans of Palestinian descent, non- or anti-Zionist Jewish Americans, or any other advocates for Palestinian human rights, who frequently and constitutionally voice their political dissent of Israeli policies, under increased scrutiny by the federal government’s policing arms—wasting valuable resources that could be used to counter legitimate threats.

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### ***Recent events show the concerns about the CAA are not hyperbole.***

- Since the mass student movement in support of Palestinian human rights, the conflation of criticism of Israel with antisemitism has already resulted in suppression of political speech and the right to assembly.
- We have seen the arrests of more than 2,300 Americans, and the threat of further law enforcement action.
- Numerous college and university presidents ordered or requested law enforcement to descend on college campuses, resulting in police beating, tasing, shooting rubber bullets, and other acts of violence against protesters, the vast majority of whom were peaceful.