

Protect Free Speech in K-12 Schools in Concord, MA, and Beyond

Background

The ADL and [State Special Commission on Combating Antisemitism](#) have [recommended](#) that the Concord school district use the [IHRA definition](#) of antisemitism to define hate. Three examples in the confusing and controversial IHRA definition are political speech about Israel. This conflicts with students' and teachers' Constitutional [right to free speech](#).

The IHRA definition prevents students and teachers from saying some categories of true things about Israel. Moreover, needing to learn a confusing set of rules to discuss Israel means people will stop talking about it, creating a blind spot in our democracy. Suppressing speech about an unpopular foreign state won't fight antisemitism, it will create it.

No matter your thoughts on Israel, Concord residents need to stand up for the rights of students and teachers to respectfully share facts and opinions. A school where teachers can't teach true things about a foreign state isn't a school. A democracy where we can't say true things about a foreign state isn't a democracy.

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Examples of Speech Endangered by the IHRA Definition

Sharing reports from human rights groups on apartheid in Israel	Endangered by Example 6
Discussing Israel's race-based laws	Endangered by Example 6 and 7
Discussing genocide accusations against Israel	Endangered by Example 9
Sharing quotes such as "The biggest difference between Gaza and the Jewish ghettos in Nazi-occupied Europe is that Gazans ... are still alive and the world still has an opportunity to do something about it" – Masha Gessen	Endangered by Example 9

FAQ

What is political speech?

Political speech is speech about political concepts such as states, laws, and rights. Political speech is the [highest category for legal protection](#) under the First Amendment. Three of the examples of antisemitism in the IHRA definition are political speech about Israel.

Who are you to say what the definition of antisemitism is?

While people are free to define antisemitism how they want, governments are prevented by the First Amendment from interfering with political speech. Therefore, political speech can't be included in town or school district policy defining hate.

The definition says that Israel can be criticized in the same way as other states. What's the problem?

The definition also says that "requiring of it [Israel] a behavior not expected or demanded of any other democratic nation." is antisemitism. This can be used to defend Israel's race-based laws by pointing out that other countries, such as Japan, have race-based laws, making talking about them in Israel antisemitic. Israel receives substantial ongoing support from US taxes. Therefore, Israel must meet a higher bar than other states, and its actions must align with American values. Moreover, no criticism of any state policy can be hate.

The definition says that antisemitism accusations need to take context into account. Aren't you over-reacting?

In places where the IHRA definition is used, [the most severe interpretation](#) is often enforced to avoid potential issues. Rights that aren't defended are easily lost.

Don't Jewish students deserve to be safe?

Equality is a core value in our democracy. If we censor speech about Israel to protect Jewish students, do we censor speech about China to protect Chinese students? What about students from Iran? Let's keep everyone safe by making sure kids talk respectfully about politics, no matter what country they're talking about.

The lead author of the IHRA definition, Kenneth Stern, argues that using it to suppress political speech makes Jewish students less safe. Stern says its current use in universities is "[the biggest threat \[to Jewish students\] on campus today](#)".

Key References

ACLU <u>Reject Definitions of Antisemitism that Encompass Protected Speech</u>	Calls out use of political speech in the IHRA Definition of Antisemitism Provides examples of how the definition has been used to suppress speech critical of Israel
Human Rights Watch <u>Letter to American Bar Association</u>	Stresses how definition can be used to suppress speech regarding Israeli human rights abuse Provides examples of misuse
New Yorker <u>The Troubling Lines that Columbia is Drawing</u>	Quotes IHRA definition lead author Kenneth Stern: use of definition to suppress political speech poses "one of the most significant threats [to Jewish students] on campus today"
Commonwealth Beacon <u>State commission to combat antisemitism misses the mark</u>	Highlights practical flaws in IHRA definition "In practice, different aspects of the recommendations contradict each other or put staff, teachers, and students in impossible educational situations"
Guardian <u>Israeli documents show expansive government efforts to shape discourse around Gaza war</u>	Quotes Israeli Knesset meetings with consultants paid to promote the IHRA definition through US based groups: "We shifted the focus to work at the local level [...] We've found that mayors and states – it's much easier to work with them"