
SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair
2015 - 2016 Regular

Bill No: SCR 35
Author: Stone
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Consultant: Kathleen Chavira
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Subject: Anti-Semitism

SUMMARY

This bill urges each University of California (UC) campus to adopt a resolution condemning all forms of anti-Semitism and racism, including Islamophobia, and declares the Legislature's condemnation of anti-Semitism augmenting education programs at all publicly funded schools in the State of California.

BACKGROUND

Existing law prohibits the UC Regents, CSU Trustees, and CCD governing boards from making or enforcing a rule subjecting a student to disciplinary sanction solely on the basis of conduct that is speech or other communication that, when engaged in outside a campus of those institutions, is protected from governmental restriction by the First Amendment to the United States Constitution or Section 2 of Article I of the California Constitution. Existing law authorizes a student to commence a civil action against an institution that has made or enforced such a rule. (EC § 66301)

Existing law clarifies that the aforementioned law does not prohibit the imposition of discipline for harassment, threats, or intimidation, unless constitutionally protected; nor does it prohibit an institution from adopting rules and regulations designed to prevent hate violence from being directed at students in a manner that denies full participation in the educational process, if the rules and regulations conform to constitutional rights. (EC § 66301)

Existing law prohibits an employee from being dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against solely for acting to protect a student engaged in conduct protected by the constitution or the aforementioned laws, or for refusing to infringe upon conduct that is protected by the constitution or the aforementioned laws. (EC § 66301)

Existing law requests the UC Regents, the CSU Trustees, and local community college governing boards, to adopt and publish policies on harassment, intimidation, and bullying. (EC § 66302)

ANALYSIS

This bill urges each University of California campus to adopt a resolution condemning all forms of anti-Semitism and racism, including Islamophobia, and resolves the

Legislature's condemnation of any act of anti-Semitism augmenting education programs at all publicly funded schools in the State of California. Further, this resolution finds:

1. That the United States Department of State has defined anti-Semitism as specified.
2. That there is clear evidence of increasing and alarming incidents and expression of anti-Semitism throughout the world and that one can witness the proliferation of anti-Semitic activity.
3. That the Jewish Caucus of the Legislature held a related press conference in February 2015 and an estimated 500 people gathered at the Capitol to protest anti-Semitic acts across the nation.
4. That swastikas and other anti-Semitic sentiments have increased on college campuses across the country and around the world.
5. That record anti-Semitic acts around the world in 2014 included murders, attacks, death threats, arson, graffiti, and other acts.
6. That these acts extended to soccer stadiums, the internet, editorial cartoons, Nazi salutes, and lead Jewish individuals to conceal their religious and ethnic identity.
7. That the governments of France, Germany, Italy and the United Kingdom, where the majority of European anti-Semitic acts have occurred, have condemned anti-Semitism and declared attacks on their Jewish communities intolerable.
8. That the State of California actively promotes tolerance of all faiths and religions and the United States government has played an active role in counteracting the resurgence of anti-Semitism worldwide.
9. That the Legislature joins in the unequivocal condemnation of all forms of anti-Semitism and rejects all forms of anti-Semitism and attempts to justify anti-Jewish hatred or violent attacks as an acceptable expression of disapproval or frustration over political events in the Middle East or elsewhere.

STAFF COMMENTS

1. ***Need for the bill.*** According to the author, this resolution is prompted by the display of a Nazi swastika on top of an American flag at a Sacramento home and the spraying of swastikas on a Jewish fraternity building near the University of California Davis campus. According to the author, this resolution seeks to condemn the rise of anti-Semitism that he opines has been seen across the state and around the world.
2. ***Clarifying definitions.*** This resolution references a definition of anti-Semitism issued by the United States Department of State. Staff notes that this definition has come under criticism as expanding beyond a definition of anti-Semitism as hatred, violence, intimidation or discrimination targeting Jews because of their

ethnic and religious identity to encompassing political speech and activities critical of policies related to the state of Israel.

Should the resolution be amended to refer to the Merriam Webster definition of anti-Semitism (hostility toward or discrimination against Jews as a religious, ethnic, or racial group) in order to ensure that there is no misinterpretation of the Legislature's intent regarding this resolution?

3. ***Islamophobia.*** This bill calls for the adoption of a resolution condemning anti-Semitism and racism, including Islamophobia. According to the Council on American-Islamic Relations' (CAIR) website, Islamophobia is closed-minded prejudice against or hatred of Islam and Muslims. An Islamophobe is an individual who holds a closed-minded view of Islam and promotes prejudice against or hatred of Muslims.
4. ***Religious tolerance versus content of educational programs?*** This bill resolves the Legislature's condemnation of any act of "anti-Semitism augmenting education programs" at all public funded schools in the State of California. While the Legislature may choose to clearly articulate its condemnation of anti-Semitic acts and tolerance and acceptance of all religious beliefs, it is unclear what specifically would be seen as an "anti-Semitic augmentation of an education program." Could this language be interpreted as the Legislature's support of the restriction of free speech activities on a college campus?

Staff recommends the bill be amended to delete "augmenting education programs" on page 3, line 9. **Staff further recommends** the bill be amended to insert, "Nothing in this resolution is intended to diminish the rights of students or anyone else to freely discuss or engage in any legal speech or other activity protected by the Constitution of the United States."

5. ***Related UC activity.*** The UC reports several responses and related policies:
 - A. In March 2015, the UC President and UC Board of Regents Chairman issued a statement speaking out against bigotry and hate in light of recent instances of anti-Semitism on UC campuses. The statement explained that anti-Semitic incidents, as well as bigotry directed against any member of the UC community because of their faith, ethnicity, gender or sexual orientation, will not be tolerated and deserve condemnation.
 - B. Each of the UC campuses has their own policy regarding the freedom of expression. In addition to these individual policies, the Board of Regents has also established a policy on employee and student protections related to student press and student free speech rights. These policies are based on the belief that free expression, robust discourse, and the vigorous debate over ideas and principles are essential to the mission of the University.
 - C. In 2010, UC established a systemwide Campus Climate Incidents Reporting System, a 24-hour hotline for reporting incidents of bias, hate, intolerance, and intimidation. The new hotline was integrated with existing

hotlines at the nine undergraduate campuses, and is staffed by an outside vendor to ensure confidentiality.

- D. In 2011, based on deliberations with campus administrations, students, and the UC President's Advisory Council on Campus Climate, Culture, and Inclusion, the University amended its policies on student conduct which enhanced the capacity of campus administrators to respond to acts of discrimination, particularly where the victim was targeted because of their identity.
- E. In 2011, several members of the UC President's Advisory Council on Campus Climate, Culture, and Inclusion visited some UC campuses and met with members of the Jewish community to engage in fact-finding and identify ways to make campuses more inclusive and welcoming for Jewish students. Similarly, Council members also met with members of the Muslim, Palestinian, and Arab communities, to gain insight into the educational and co-curricular experiences of Muslim and Arab students and identify ways to make campuses more inclusive and welcoming for them. Several recommendations that came out of these meetings have been implemented, including collecting data in a more inclusive way, addressing dietary and living accommodation needs of Muslim and Jewish students, and providing student meditation or reflection space on campuses.
- F. Beginning fall of 2012, the University of California surveyed its faculty and other academic appointees, students, staff, trainees, and post-doctoral scholars about their experiences and perceptions of campus or workplace climate. In response to the findings of the UC Campus Climate Study, each UC campus has convened a group of representatives to develop and execute action plans to address key issues raised in the survey.

6. ***Related and prior legislation.***

HR 35 (Halderman, 2012) called upon officials of California public postsecondary educational institutions to increase their efforts to condemn acts of anti-Semitism on their campuses. This House Resolution was adopted by the Assembly via a vote in the Assembly Higher Education Committee in August 2012 of 8-1.

SUPPORT

None received.

OPPOSITION

Asian Law Caucus
Center for Constitutional Rights
Jewish Voice for Peace
National Lawyers Guild, Los Angeles