

SECOND REGULAR SESSION

# HOUSE BILL NO. 2393

## 103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MACKEY.

5898H.01I

JOSEPH ENGLER, Chief Clerk

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### AN ACT

To amend chapters 160 and 173, RSMo, by adding thereto four new sections relating to prohibiting antisemitic actions that threaten students and staff at educational institutions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapters 160 and 173, RSMo, are amended by adding thereto four new sections, to be known as sections 160.014, 160.015, 173.001, and 173.002, to read as follows:

**160.014. 1. As used in this section and section 160.015, the following terms mean:**

**(1) "Antisemitism" or "antisemitic", the International Holocaust Remembrance Alliance's (IHRA) Working Definition of Antisemitism, including its contemporary examples, as it was adopted on May 26, 2016, as a tool and guide for recognizing and combating antisemitism;**

**(2) "Educational institution", each public school and school district in this state.**

**2. Each educational institution shall treat harassment of or discrimination against students or employees, or harassment or discrimination resulting from institutional policies or programs on such educational institution's campuses, that is motivated by or including antisemitism in an identical manner to discrimination motivated by race.**

**3. (1) Each educational institution shall integrate the definition of antisemitism in this section into such educational institution's student, faculty, and employee codes of conduct and shall prohibit such conduct at or by such educational institution if such conduct creates an atmosphere or circumstance in which individuals working at,**

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 visiting, or attending the educational institution are impeded from their normal course  
18 of work, study, or access to the educational institution and the educational institution's  
19 services and facilities either by physically impeding such activity or by creating an  
20 atmosphere of fear or intimidation.

21 (2) Prohibited conduct as it relates specifically to antisemitism shall be  
22 incorporated into such educational institution's student, faculty, and employee codes of  
23 conduct and shall include penalties for harassment of and discrimination against Jews  
24 in compliance with antidiscrimination regulations promulgated under Title VI of the  
25 federal Civil Rights Act of 1964, as amended, by the United States Department of  
26 Education and the United States Department of Justice.

27 4. (1) Criticism of Israel that is similar to criticism toward any other country  
28 shall not be construed to be antisemitic.

29 (2) Nothing in this section shall be construed to diminish or infringe upon any  
30 right protected under the First Amendment to the Constitution of the United States or  
31 the Constitution of Missouri.

32 (3) Nothing in this section shall be construed to conflict with federal or state  
33 discrimination laws.

160.015. 1. (1) No educational institution shall discriminate because of race,  
2 ethnicity, national origin, sex, disability, religion, or marital status against a student or  
3 an employee in the state system of public elementary and secondary education.

4 (2) No person in this state shall, on the basis of race, ethnicity, national origin,  
5 sex, disability, religion, or marital status, be excluded from participation in, denied the  
6 benefits of, or subjected to discrimination under any program or activity or in any  
7 employment conditions or practices conducted by an educational institution that  
8 receives or benefits from federal or state financial assistance.

9 2. An educational institution's criteria for admission to a program or course  
10 shall not have the effect of restricting access by persons of a particular race, ethnicity,  
11 national origin, sex, disability, religion, or marital status.

12 3. (1) All of an educational institution's classes shall be available to all students  
13 without regard to race, ethnicity, national origin, sex, disability, religion, or marital  
14 status.

15 (2) This subsection shall not be construed to eliminate the provision of programs  
16 designed to meet the needs of students with limited proficiency in English, gifted  
17 students, or students with disabilities or programs tailored to students with special  
18 needs.

19 4. Guidance services, counseling services, and financial assistance services in an  
20 educational institution shall be available to all students equally and provided in the

21 same manner regardless of race, ethnicity, national origin, sex, disability, religion, or  
22 marital status.

23       **5. All education programs, activities, and opportunities offered by educational**  
24 **institutions shall be made available without discrimination on the basis of race,**  
25 **ethnicity, national origin, sex, disability, religion, or marital status.**

26       **6. (1) Nothing in this section shall be construed to diminish or infringe upon any**  
27 **right protected under the First Amendment to the Constitution of the United States or**  
28 **the Constitution of Missouri.**

29       **(2) Nothing in this section shall be construed to conflict with federal or state**  
30 **discrimination laws.**

31       **7. (1) Each educational institution shall report incidents and complaints of**  
32 **antisemitic discrimination or harassment to the Title VI coordinator at the department**  
33 **of elementary and secondary education.**

34       **(2) The Title VI coordinator shall establish, maintain, and publicize a formal**  
35 **reporting process by which students, parents, staff, and faculty can submit complaints**  
36 **of antisemitic discrimination and harassment.**

37       **(3) The Title VI coordinator shall thoroughly investigate all complaints made**  
38 **under this subsection. After a reasonable investigation, if the coordinator determines**  
39 **that an educational institution has engaged in, allowed, or failed to sufficiently prohibit**  
40 **antisemitic discrimination or harassment, the department of elementary and secondary**  
41 **education shall notify, in writing, the educational institution of such determination and**  
42 **that such educational institution is required to address the issues described in such**  
43 **determination within thirty days after receipt of such written notice.**

44       **(4) After the expiration of the thirty days to address issues in the coordinator's**  
45 **determination, if the Title VI coordinator determines the educational institution has**  
46 **failed to take the necessary actions to address such issues, the department of elementary**  
47 **and secondary education shall report the coordinator's determination to the United**  
48 **States Department of Education and the United States Department of Justice by making**  
49 **a complaint under Title VI of the federal Civil Rights Act of 1964, as amended.**

50       **(5) The Title VI coordinator shall compile an annual report on complaints of**  
51 **antisemitic discrimination and harassment monitored, reported, and investigated under**  
52 **this section. Such report shall be published on the website of the department of**  
53 **elementary and secondary education and submitted to the general assembly before July**  
54 **first of each year.**

**173.001. 1. As used in this section and section 173.002, the following terms**  
2 **mean:**

3           (1) "Antisemitism" or "antisemitic", the International Holocaust Remembrance  
4 Alliance's (IHRA) Working Definition of Antisemitism, including its contemporary  
5 examples, as it was adopted on May 26, 2016, as a tool and guide for recognizing and  
6 combating antisemitism;

7           (2) "Educational institution", a public postsecondary educational institution  
8 governed or supervised by a:

9           (a) Board erected under chapter 172, 174, 175, or 178;

10           (b) Board of trustees of a community college; or

11           (c) State board for any other technical school.

12           2. Each educational institution shall treat harassment of or discrimination  
13 against students or employees, or harassment or discrimination resulting from  
14 institutional policies or programs on such educational institution's campuses, that is  
15 motivated by or including antisemitism in an identical manner to discrimination  
16 motivated by race.

17           3. (1) Each educational institution shall integrate the definition of antisemitism  
18 in this section into such educational institution's student, faculty, and employee codes of  
19 conduct and shall prohibit such conduct at or by such educational institution if such  
20 conduct creates an atmosphere or circumstance in which individuals working at,  
21 visiting, or attending the educational institution are impeded from their normal course  
22 of work, study, or access to the educational institution and the educational institution's  
23 services and facilities either by physically impeding such activity or by creating an  
24 atmosphere of fear or intimidation.

25           (2) Prohibited conduct as it relates specifically to antisemitism shall be  
26 incorporated into such educational institution's student, faculty, and employee codes of  
27 conduct and shall include penalties for harassment of and discrimination against Jews  
28 in compliance with antidiscrimination regulations promulgated under Title VI of the  
29 federal Civil Rights Act of 1964, as amended, by the United States Department of  
30 Education and the United States Department of Justice.

31           4. (1) Criticism of Israel that is similar to criticism toward any other country  
32 shall not be construed to be antisemitic.

33           (2) Nothing in this section shall be construed to diminish or infringe upon any  
34 right protected under the First Amendment to the Constitution of the United States or  
35 the Constitution of Missouri.

36           (3) Nothing in this section shall be construed to conflict with federal or state  
37 discrimination laws.

173.002. 1. (1) No educational institution shall discriminate because of race,  
2 ethnicity, national origin, sex, disability, religion, or marital status against a student or  
3 an employee in the state system of public postsecondary education.

4 (2) No person in this state shall, on the basis of race, ethnicity, national origin,  
5 sex, disability, religion, or marital status, be excluded from participation in, denied the  
6 benefits of, or subjected to discrimination under any program or activity or in any  
7 employment conditions or practices conducted by an educational institution that  
8 receives or benefits from federal or state financial assistance.

9 2. An educational institution's criteria for admission to a program or course  
10 shall not have the effect of restricting access by persons of a particular race, ethnicity,  
11 national origin, sex, disability, religion, or marital status.

12 3. (1) All of an educational institution's classes shall be available to all students  
13 without regard to race, ethnicity, national origin, sex, disability, religion, or marital  
14 status.

15 (2) This subsection shall not be construed to eliminate the provision of programs  
16 designed to meet the needs of students with limited proficiency in English, gifted  
17 students, or students with disabilities or programs tailored to students with special  
18 needs.

19 4. Guidance services, counseling services, and financial assistance services in an  
20 educational institution shall be available to all students equally and provided in the  
21 same manner regardless of race, ethnicity, national origin, sex, disability, religion, or  
22 marital status.

23 5. All education programs, activities, and opportunities offered by educational  
24 institutions shall be made available without discrimination on the basis of race,  
25 ethnicity, national origin, sex, disability, religion, or marital status.

26 6. (1) Nothing in this section shall be construed to diminish or infringe upon any  
27 right protected under the First Amendment to the Constitution of the United States or  
28 the Constitution of Missouri.

29 (2) Nothing in this section shall be construed to conflict with federal or state  
30 discrimination laws.

31 7. (1) Each educational institution shall report incidents and complaints of  
32 antisemitic discrimination or harassment to the Title VI coordinator of the coordinating  
33 board for higher education under the department of higher education and workforce  
34 development.

35 (2) The Title VI coordinator shall establish, maintain, and publicize a formal  
36 reporting process by which students, parents, staff, and faculty can submit complaints  
37 of antisemitic discrimination and harassment.

38           **(3) The Title VI coordinator shall thoroughly investigate all complaints made**  
39 **under this subsection. After a reasonable investigation, if the coordinator determines**  
40 **that an educational institution has engaged in, allowed, or failed to sufficiently prohibit**  
41 **antisemitic discrimination or harassment, the coordinating board for higher education**  
42 **shall notify, in writing, the educational institution of such determination and that such**  
43 **educational institution is required to address the issues described in such determination**  
44 **within thirty days after receipt of such written notice.**

45           **(4) After the expiration of the thirty days to address issues in the coordinator's**  
46 **determination, if the Title VI coordinator determines the educational institution has**  
47 **failed to take the necessary actions to address such issues, the coordinating board for**  
48 **higher education shall report the coordinator's determination to the United States**  
49 **Department of Education and the United States Department of Justice by making a**  
50 **complaint under Title VI of the federal Civil Rights Act of 1964, as amended.**

51           **(5) The Title VI coordinator shall compile an annual report on complaints of**  
52 **antisemitic discrimination and harassment monitored, reported, and investigated under**  
53 **this section. Such report shall be published on the website of the coordinating board for**  
54 **higher education and submitted to the general assembly before July first of each year.**

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