



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS

OCT 22 2004

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Dear Dr. Groeneman:

This letter is to respond to the correspondence that you transmitted to me by electronic mail on October 5, 2004. At the outset, let me thank you for your kind remarks concerning the "good work" that the U.S. Department of Education's Office for Civil Rights is doing to eliminate discrimination and harassment in our nation's schools, including anti-Semitic incidents aimed at Jewish children and adult learners. It is unfortunate in this day and age to observe that we have not yet wholly extinguished bigotry and that we must continue in our vigilance as we enforce the federal civil rights laws.

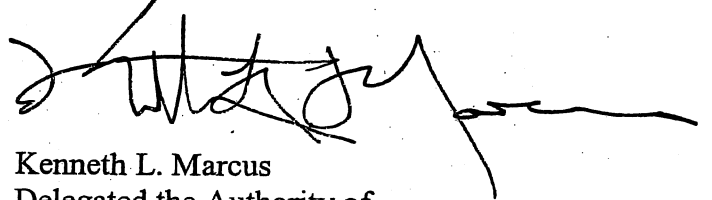
You are aware that the Office for Civil Rights recently announced, in our September 13, 2004, "Dear Colleague" letter, that this agency "aggressively investigates alleged race or ethnic harassment against Arab Muslim, Sikh and Jewish students." As you correctly note, that letter emphasizes that this office's charge to enforce Title VI of the Civil Rights Act's prohibition of racial and national-origin discrimination does not extend to cases of purely religious discrimination, *i.e.*, cases in which discrimination arises exclusively from the tenets of religious faith. On the other hand, this agency is committed to vigorously enforcing the statutes within our civil rights authority.

The United States Supreme Court, has already answered in the affirmative and in analogous statutory contexts your question as to whether, for purposes of extending civil rights protections, "Jewish" may be interpreted as an ethnic [or]...racial category...even if the alleged victims are Caucasian and American-born?" *Shaare Tefila Congregation v. Cobb*, 481 U.S. 615, 617-18 (1987) (citing *St. Francis College v. Al-Khazraji*, 481 U.S. 604, 613 (1987)). The question here, of course, is not whether "Jewish" is a racial or national-origin category *per se*, but whether anti-Jewish incidents may be covered within Title VI's broad protections against racial or ethnic discrimination. In the matter of anti-Semitism, the federal courts have been rather firm, and it is this agency's intention to be equally strong. Consistent with federal jurisprudence, OCR recognizes that anti-Semitic harassment may include adverse action taken against individuals based on a victim's

ethnic background or ancestry, notwithstanding the prospect that such harassment may constitute religious discrimination as well. In short, OCR recognizes that Title VI covers harassment of students of Jewish heritage regardless of whether the students may be Caucasian and American born. OCR cannot turn its back on victims of anti-Semitism on the grounds that Jewish heritage may include both religious and ethnic characteristics.

In response to your final question, I am not aware of any current efforts to expand the jurisdiction of this office with respect to anti-Jewish harassment or discrimination. You may wish to consult with your member of Congress regarding any pending legislation.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Kenneth L. Marcus', with a long horizontal flourish extending to the right.

Kenneth L. Marcus
Delegated the Authority of
Assistant Secretary for Civil Rights