

Legislative Testimony

In **Opposition** to HB2299
House Committee on Education
February 11th , 2025

In person Testimony

Chair Estes and members of the committee,

My name is Rashane Hamby, and I serve as the Director of Policy and Research at the American Civil Liberties Union (ACLU) of Kansas. The ACLU of Kansas is a nonpartisan, nonprofit organization with more than 35,000 supporters statewide, dedicated to protecting and advancing the civil rights and liberties of all Kansans. I am writing to express my strong opposition to HB 2299, HB 2299 represents a direct threat to free speech, academic freedom, and equal protection under the law. While combating antisemitism is a necessary and worthy goal, this bill misuses the International Holocaust Remembrance Alliance (IHRA) definition of antisemitism in a way that suppresses legitimate political discourse about Israel, weakens protections against racial discrimination, and expands state surveillance over academic institutions. This legislation follows a disturbing national trend of weaponizing allegations of antisemitism to stifle criticism of Israel and control public discourse. At the national level, executive power has been used to police speech in universities, censor racial justice movements, and undermine anti-discrimination laws (ACLU, 2021). HB 2299 replicates this playbook at the state level, creating an unequal legal framework that uses valid concerns about combating rising antisemitism as cover for attacks on protected First Amendment speech and, just as troublingly, for erasing existing critical protections for Black Kansans and other communities of color.

Weaponizing Antisemitism to Suppress Free Speech

At the heart of HB 2299 is its reliance on the IHRA definition of antisemitism, which has been widely criticized for conflating legitimate criticism of Israel with antisemitism (Stern, 2019). While antisemitism must be condemned in all forms, this bill is not about protecting Jewish communities—it is about silencing dissent.

- Academics, students, and activists could face investigation and penalties for statements such as "Israel's policies are oppressive" or "Palestinians deserve equal rights," if interpreted as "denying the Jewish people their right to self-determination" (IHRA, 2016).
- Educators and students will self-censor, avoiding necessary discussions on human rights, colonialism, and foreign policy for fear of legal repercussions.

Even Kenneth Stern, the lead drafter of the IHRA definition, has opposed its legal enforcement, stating that it was never meant to be used as a tool for criminalizing political speech (Stern, 2019). This effort to police discourse reflects the Trump administration's 2019 Executive Order on Combating Antisemitism, which used the IHRA definition to threaten federal funding for universities that allowed campus activism critical of Israeli policies (White House, 2019). HB

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2299 continues this effort at the state level, turning Kansas classrooms into battlegrounds for ideological control. This bill invites serious constitutional concerns because of its explicit attempts to limit, police, and punish protected First Amendment speech.

Undermining Equal Protection for Black Kansans and Other Communities of Color

The alarming aspect of this bill is how HB 2299 weakens legal protections against racial discrimination, particularly harming Black Kansans. The Kansas Act Against Discrimination previously provided protections against discrimination based on race, religion, color, sex, disability, national origin, or ancestry. HB 2299 removes explicit references to racial discrimination while prioritizing only antisemitism, effectively erasing key civil rights protections.

- Black workers facing racial discrimination in hiring, promotions, or workplace conditions will have a harder time seeking legal recourse.
- Housing discrimination cases will be more difficult to challenge, disproportionately affecting Black renters and homeowners.
- Kansas schools will no longer be required to apply anti-discrimination protections equally across racial, ethnic, and religious lines.

This bill removes critical protections against discrimination and harassment, effectively sending the message that Kansas is a place where discrimination and harassment on the basis of race are not only tolerated but welcomed. That is wholly inconsistent with the values that Kansans share.

Increased Power of the Attorney General: State Overreach and Selective Enforcement

HB 2299 grants the Kansas Attorney General sweeping new powers to investigate, subpoena, and punish schools and universities for perceived violations of its vague antisemitism provisions. This raises serious concerns about government overreach, political censorship, and selective enforcement.

- The Attorney General could subpoena individuals, demand testimony under oath, and conduct politically motivated investigations into academic institutions.
- This law opens the door to selective prosecution, where speech critical of Israel is punished while other discriminatory practices—including racial discrimination—are ignored.

Financial Penalties on Schools: Defunding Education Through Censorship

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HB 2299 imposes severe financial penalties on schools, punishing institutions for allowing discussions that lawmakers deem inappropriate.

- **Public schools and universities could be fined up to \$10,000 per violation, diverting resources from education into compliance costs and legal defenses.**
- **Schools already struggling with funding disparities—especially those serving Black and Latino students—will be disproportionately impacted.**
- **Taxpayer dollars will be wasted defending vague and politically motivated lawsuits rather than improving public education.**

Impact on Academic Freedom and Curriculum: Censorship in the Classroom

HB 2299 lacks clear definitions regarding what constitutes antisemitic content in education, leaving room for arbitrary enforcement.

- Educators may feel pressured to avoid discussing Middle Eastern politics, world religions, or historical events that could be considered controversial.
- Universities could cancel guest speakers, student events, or academic panels to avoid legal risks.
- Research on Middle Eastern affairs, colonialism, and human rights may be restricted, limiting intellectual diversity and critical thought.

This bill is not about combating hate—it is about restricting knowledge. HB 2299 is a continuation of this effort to turn education into a battleground for ideological control.

Potential for Political Weaponization: Encouraging Frivolous Complaints

HB 2299 allows individuals (or their parents) to file complaints, opening the door for politically motivated or frivolous accusations.

- Complaints could be weaponized to silence students and faculty engaging in legitimate political discourse.
- Lawsuits and investigations will disproportionately target Black-led advocacy groups, student activists, and faculty of color who are already more vulnerable to institutional scrutiny.
- Schools may preemptively censor discussions to avoid controversy, further eroding free speech.

Conclusion

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HB 2299 is not a genuine effort to combat discrimination—it is a political tool designed to silence free speech, weaken racial discrimination protections, and expand state control over education. HB 2299 uses censorship, financial penalties, and government overreach to police discourse in Kansas classrooms. For these reasons, the ACLU of Kansas strongly opposes HB 2299 and urges the Kansas Legislature to reject this dangerous bill.

Kansas must stand for free speech, equal protection, and academic freedom—not government censorship.

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