



The Louis D. Brandeis Center, Inc. (LDB) is an independent, non-partisan institution for public interest advocacy, research and education. The Center's mission is to advance the civil and human rights of the Jewish people and to promote justice for all.

“The Morass of Middle East Studies: Title VI of the Higher Education Act and Federally Funded Area Studies”

Rev. Ed. November 2014

1776 I Street NW, Ste. 900, Washington, DC 20006
(202) 756-1822
www.brandeiscenter.com



The Morass of Middle East Studies: Title VI of the Higher Education Act and Federally Funded Area Studies

The Louis D. Brandeis Center for Human Rights Under Law

About the Louis D. Brandeis Center for Human Rights Under Law:

LDB is an independent, unaffiliated, nonprofit corporation established to advance the civil and human rights of the Jewish people and promote justice for all. LDB combats the resurgence of anti-Semitism on college and university campus through research, educational programs, and advocacy.

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EXECUTIVE SUMMARY

Six years ago, Congress recognized the need for “diverse perspectives” in federally funded Middle East Studies programs. Congress had created the so-called “Title VI programs” in 1958 to address Cold War national security demands. After September 11, 2001, it was more important than ever to provide United States intelligence and armed services agencies with a pipeline of skilled workers. Unfortunately, Title VI programs were not serving their intended purpose.

Indeed, these Title VI programs had become a national embarrassment. Critics had long warned that they suffered uneven quality, misplaced priorities, weak oversight, and low transparency. Many Title VI recipients were ideologically politicized institutions notorious for one-sided approaches hostile to the United States, the West, and Israel. Some programs were reportedly so hostile towards Israel that they would not even remotely entertain views that contradicted their unrelentingly anti-Israel perspective. In short, there was no academic freedom for scholars who deviated from these programs’ entrenched ideologies. Critics observed that this was especially pronounced in the congressionally mandated “public outreach” programs.

Reformers urged Congress to fix Title VI during the last reauthorization cycle. In 2006, the U.S. Commission on Civil Rights found evidence that some recent anti-Semitic incidents “are fueled by ideologically biased campus programs that receive operating

funds from the federal government under Title VI of the Higher Education Act.”¹ In the Higher Education Opportunity Act (“HEOA”) of 2008, Congress required Title VI programs to reflect “diverse perspectives” but neglected to create a system to hold them accountable for doing so. The U.S. Department of Education (“Department”) could have ameliorated the situation through appropriate implementing regulations but did not. As a result, some Title VI programs reportedly continue to provide one-sided, politicized public outreach programs instead of educationally meaningful programming. For example, a recently released AMCHA Initiative study found bias against Israel² in 93 percent of Title VI-funded Israel-related public events presented between 2010 and 2013 at the University of California at Los Angeles’ (“UCLA’s”) Gustav E. Von Grunebaum Center for Near Eastern Studies (“CNES”).³

Authorization for current programs under the HEOA expired at the end of 2013. As Congress turns to reauthorization, the time has come either to complete the job that it began in 2008 or to eliminate Title VI funding altogether. In other words, mend it or end it. Congress should either direct the Department of Education to enforce Title VI just as it does with other comparable programs or shift program funds to other recipients, such as the United States service academies. If the program is reauthorized, recipients of Title VI funds should take firm and effective steps to include diverse perspectives and a wide range of views, and the Department of Education should establish a proper accountability

¹ U.S. Commission on Civil Rights, *Briefing Report: Campus Anti-Semitism*, U.S. COMM’N ON CIVIL RIGHTS 1 (July 2006), <http://www.usccr.gov/pubs/081506campusantibrief07.pdf>.

² See AMCHA Initiative, *Antisemitic Activity and Anti-Israel Bias At the Center for Near East Studies, Univ. of Cal. at L.A. 2010-2013*, July 2014.

³ *About Us*, THE G.E. VON GRUNEBaum CENTER FOR NEAR EASTERN STUDIES, <http://www.international.ucla.edu/cnes/aboutus> (last visited July 10, 2014). (CNES which receives Title VI funding, “encourages, coordinates and integrates instruction and research in the humanities and the social sciences, business, law, medicine and the media, and in all languages essential to an understanding of the Near East.”)

system to ensure that they do so. Unless effective and necessary reforms can be enacted, Congress may have to consider reducing or eliminating Title VI funding from Middle East Studies centers.⁴ The burden is now on Title VI recipients to demonstrate that they can reform their programs sufficiently to deserve even reduced levels of funding.

A SHORT HISTORY OF TITLE VI OF THE HIGHER EDUCATION ACT

Cold War Origins

The United States invented Middle East Studies at roughly the halfway mark of the last century.⁵ The study of Near Eastern peoples, then known as “Orientalism,” had a long history in Europe, but Americans generally disdained the European studies for their stuffy erudition. After World War II, Americans increasingly understood the importance of area studies, especially in the social sciences, to provide federal agencies with better knowledge of other parts of the world. Through massive federal funding, the United States supported the establishment of “Middle East Studies” programs at universities across the country.

Congress passed the National Defense Education Act (“NDEA”), predecessor to the Higher Education Act of 1965 (“HEA”) and the HEOA, in August 1958, and President

Dwight D. Eisenhower signed it into law on September 2, 1958 as a response to the growing national sense that American education was falling behind the rest of the world

⁴ In 2011, Congress reduced Title VI funding nationwide by 40 percent, from \$34 million to \$18 million.

⁵ See MARTIN KRAMER, *IVORY TOWERS ON SAND: THE FAILURE OF MIDDLE EASTERN STUDIES IN AMERICA* 5-11 (Washington Institute for Near East Policy 2001).

(specifically the Soviet Union).⁶ The NDEA was designed to provide the country with better-educated, defense-oriented personnel by providing financial help to foreign language scholars, foreign area studies centers, and science/engineering/mathematical studies programs. The NDEA also provided financial assistance in the form of the National Defense Student Loan Program for thousands of students seeking to gain an education in these fields. These programs were administered by the Department of Health, Education and Welfare and upon its creation, by the Department of Education.

The ten titles created by NDEA included one concerned with foreign language training, Title VI. In order to address concerns about states' rights, Congress emphasized that Title VI would not authorize control over curriculum: "Nothing in the Act shall authorize any agency or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any institution or school system."⁷ Title VI created both "Centers and Research Studies" and "Language Institutes." Since its inception, Title VI has been the primary source of funding for language and areas studies for university programs and students.

The NDEA paved the road for programs under the HEA, signed into law on November 8, 1965.⁸ Enacted to strengthen the educational resources of American colleges and universities and to provide financial assistance for students, the HEA funds

⁶ See U.S. Dep't of Educ., *The Federal Role in Education* (Feb. 13, 2012), <http://www2.ed.gov/about/overview/fed/role.html>; *National Defense Education Act*, http://www.princeton.edu/~achaney/tmve/wiki100k/docs/National_Defense_Education_Act.html (last visited June 30, 2014); *National Defense Education Act of 1958*, FED. EDUC. POLICY HISTORY, (June 3, 2011, 1:52 PM), <http://federaleducationpolicy.wordpress.com/2011/06/03/national-defense-education-act-of-1958-2/>.

⁷ Amy Newhall, *The Unraveling of the Devil's Bargain: The History and Politics of Language Acquisition*, ACADEMIC FREEDOM AFTER SEPT. 11 210 (Beshara Doumani ed., 2006).

⁸ Higher Education Act of 1965, Pub. L. 89-329, 79 Stat. 1219.

scholarships, increases research grants, and creates low-interest student loans. The HEA has been reauthorized in 1968, 1971, 1972, 1976, 1980, 1986, 1992, 1998, and 2008. Before each reauthorization, Congress has amended certain programs, added additional programs, and changed the language and policies of existing programs.

Early Criticisms and Funding Cuts

Over the years, Title VI programs became controversial for many perceived shortcomings. These included: the relatively weak knowledge, skills, and standards of many Middle East Studies faculty; the ideological polarization of the field; and the failure of Middle East Studies scholars to predict important area developments, such as the Iranian revolution, the September 11th attacks, or the Arab Spring. Some critics have argued that Middle East Studies programs are not working as an effective pipeline to intelligence and national security agencies and may discourage students from serving. They argue that Title VI centers have underemphasized language acquisition, which is central to the statute's purpose, and overemphasized soft area studies, which enjoys more academic prestige. Others have argued that they are underfunded or overfunded or that their tasks could be more effectively accomplished by other entities such as the United States service academies. Increasingly, critics have maintained that Title VI programs have become dominated by an intellectually orthodox academic subculture, hostile to the national security interests of the United States and Israel, which rebuff dissenting perspectives.

In some cases, criticism of Title VI has led to sharp funding reductions. Significant efforts to cut, reform, or abolish Title VI began in the early 1970s. The Nixon administration, concerned about academics' opposition to Vietnam War policies, made the first of many efforts to cut funding to Title VI and ultimately phase it out.⁹ Title VI survived these efforts but was considerably reduced. Since then, many have called to increase, reduce, or eliminate Title VI funding. In 2011, for example, Congress reduced Title VI funding nationwide by 40 percent, from \$34 million to \$18 million.

Post-9/11 Reform Efforts

After September 11, 2001, greater attention was paid to both the need for Middle East Studies and to the weaknesses in current reforming efforts. This increased the contentiousness of reauthorization efforts beginning in 2003. Two major books had raised public awareness of the failures of Title VI-funded Middle East Studies programs and shaped the ensuing public and congressional dialogues. In his seminal 2001 book, *Ivory Towers on Sand: The Failure of Middle Eastern Studies in America*, Professor Martin Kramer argued that Middle East Studies programs in America were in trouble.¹⁰ Kramer traced the history of Middle East Studies, documenting its decline over the decades and detailing both its academic deficiencies and its political orthodoxy. Questioning whether Congress should continue to fund these programs under Title VI, he argued that these programs would be hard-pressed to justify their continued support under the rigorous

⁹ See Newhall, *supra* note 6 at 211.

¹⁰ KRAMER, *supra* note 4.

evaluative requirements of the 1993 Government Performance and Results Act. Kramer described various reforms that might be undertaken if Title VI was not eliminated altogether, such as improving the scoring system for Title VI applications or involving both governmental and nongovernmental representatives in the selection process. Kramer admonished, “it is important for Congress to take a deeper interest in Title VI, and Middle Eastern studies are as good a place as any to begin asking questions.”¹¹

Dr. Gary A. Tobin and his colleagues at the Institute for Jewish & Community Research expanded on Kramer’s analysis in their volume, *The Uncivil University: Politics & Propaganda in American Education*.¹² Tobin argued, both in *Uncivil University* and in testimony before the U.S. Commission on Civil Rights, that Middle East Studies programs suffer from low quality, political one-sidedness, suppression of dissenting viewpoints, and even outright anti-Semitism. In his view, the academic mediocrity of these programs is intertwined with its political orthodoxy and repressive tendencies:

The field of Middle East Studies has become dominated by a specific political outlook that situates the world, and everyone in it according to a narrow agenda. Poor scholarship, both due to errors of commission and omission, plague the work of Middle East Studies faculty, including revisionism in rewriting the history of Israel and Jews. As a result, some students and faculty have found that they are marginalized because of their religion, nationality, or political beliefs. Students can

be made to feel as if their views are invalid, or even bigoted. Some have reported being directly harassed by professors.¹³

¹¹ *See id.* at 128

¹² GARY A. TOBIN, ARYEH K. WEINBERG & JENNA FERER, *THE UNCIVIL UNIVERSITY* (San Francisco: Institute for Jewish & Community Research 2005).

¹³ *Id.* at 152.

Tobin argued that this created problems for dissenting faculty as well, especially professors who are sympathetic to the State of Israel:

Pro-Israel faculty have, in the instances where they have chosen to counter the many claims made against Israel, found themselves in the academic hinterlands. Certainly not all professors in Middle East Studies are anti-Israel, nor have all those who have criticized Israel done so inappropriately. But the anti-Israelists have successfully silenced many dissenters and dominate the field.¹⁴

Tobin, et al., went further, arguing that some Middle East Studies programs are “at the forefront of the anti-Israel movement” and even “engage in anti-Semitic behavior.”¹⁵ Tobin argued that universities provide more effective internal review of their Middle East Studies programs:

More internal review of Middle East Studies departments, centers, and institutes is critical. Committees of scholars should be established, both from within the individual institutions as well as from other universities to review of the level of scholarship, quality of teaching, and objectivity of this discipline. This process should be ongoing until it is clear that these departments and institutes conform to norms of quality and honest scholarship and teaching. All tenure decisions for this field should be made outside the departments.¹⁶

Tobin acknowledged, however, that such internal review must be supported by public oversight similar to the public oversight procedures established for other research institutions. “At the same time,” he wrote, “appropriate public sector oversight of these federally funded programs should be instituted in the same ways that the National Science Foundation, the National Institutes of Health, and other public grant-making institutions operate.”¹⁷

¹⁴ *Id.* at 152.

¹⁵ *Id.* at 151.

¹⁶ *See id.* at 216.

¹⁷ *Id.* at 216.

In the wake of such publications, reformers argued that Congress must take action. Some reformers argued that these programs were accepting federal funds specifically intended to aid in developing American foreign policy and strengthening national security, yet some stretched as far as discouraging students from serving in national security positions upon graduation, and even supported boycotts of the National Security Agency.¹⁸ Others emphasized that these programs propagated anti-Israel and anti-American sentiment across campuses.

In response to such criticisms, the Senate Committee on Health, Education, Labor, and Pensions held a hearing on October 29, 2003 entitled, “Is Intellectual Diversity an Endangered Species on America’s College Campuses?”¹⁹ During the hearing, several experts testified about problems in the Middle East Studies programs, including anti-American and anti-Israel bias, as well as inadequate oversight. The American Jewish Congress (“AJC”), for example, testified that its investigation had “revealed that anti-American and anti-Israel bias permeated materials distributed” in certain of these Title VI funded programs.²⁰ By conducting Freedom of Information Act (“FOIA”) requests from the Department of Education and examining hundreds of pages of documents, AJC discovered that while detailed information existed about the place, time, subject, title and number of attendees at outreach programs conducted by Title VI-funded Middle East Studies centers, no information existed as to the content of these programs. Thus, the AJC concluded that

¹⁸ Stanley Kurtz, *Boycott Exposure*, NAT’L REVIEW ONLINE (Apr. 1, 2004), <http://www.nationalreview.com/kurtz/kurtz200404010914.asp>.

¹⁹ *Is Intellectual Diversity an Endangered Species on America’s College Campuses?: Hearing Before the Senate Comm. on Health, Education, Labor, and Pensions*, 108th Cong. (2003), available at <http://www.gpo.gov/fdsys/pkg/CHRG-108shrg90304/html/CHRG-108shrg90304.htm>.

²⁰ *Id.* (statement of the American Jewish Congress).

the “Department of Education has no way of assessing whether the [outreach programs conducted by Title VI-funded Middle East Studies centers] give a fair, historically accurate and balanced view of the subject presented and thus fulfill the statutory purpose of providing not only language instruction, but “full understanding of areas, regions, and countries in which such language is commonly used.”²¹

As described by Rep. Pete Hoekstra on the House floor, the primary purpose of this bipartisan bill was to update the “programs under Title VI to reflect our national security needs in the post-9/11 era, as well as in the current international climate.”²² Section 2 of the Act introduced a “Diverse Perspectives” requirement in selecting grant recipients in International and Foreign Language Studies.²³ The bill directed the Secretary of Education to “take into account the degree to which activities of centers, programs, and fellowships at institutions of higher education advance national interests, generate and disseminate information, and foster debate on American foreign policy from diverse perspectives.”²⁴ H.R. 3077 would become controversial for its proposed establishment of an Advisory Board to “study, monitor, apprise, and evaluate activities under Title VI.”²⁵ Nevertheless, Dr. Stanley Kurtz testified before Congress in July 2003 in support of the Act, arguing that the bill “has made important changes that will bring greater balance to the Title VI area studies program and ensure that it contributes to our national security preparedness.”²⁶

²¹ *Id.*

²² Representative Pete Hoekstra (R-MI) (*Congressional Record*, October 21, 2003) p. H9756 available at <http://www.gpo.gov/fdsys/pkg/CREC-2003-10-21/pdf/CREC-2003-10-21-pt1-PgH9752.pdf>.

²³ H.R. 3077, 108th Cong. (2003).

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.* (statements of Stanley Kurtz), available at http://thomas.loc.gov/cgi-bin/cpquery/?&dbname=cp108&sid=cp108s2gpt&refer=&r_n=hr813.108&item=&&&sel=TOC_546113& (last visited July 7, 2014).

On the House floor, Representative Howard Berman (D – CA) explained that the Act “makes clear that the purpose of the Board’s recommendations is to foster the ‘growth and development of international education programs . . . that encourage diverse perspectives”²⁷ He argued that the creation of an Advisory Board would help redress

the lack of balance, and anti-American bias that pervades title VI-funded Middle East studies programs. To the extent that it advances the national interest to commit taxpayer funds to institutions of higher education for the purpose of fostering expertise with regard to key regions of the world . . . it is troubling when evidence suggests that many of the Middle East regional studies grantees are committed to a narrow point of view at odds with our national interest, a point of view that questions the validity of advancing American ideals of democracy and the rule of law around the world, and in the Middle East in particular.²⁸

Mr. Berman added that the Board’s oversight function would not impinge on academic freedom. Rather, he argued that it would ensure that federal funds are expended properly. A few months after the hearing, the House passed the International Studies in Higher Education Act (H.R. 3077) on October 21, 2003 by a voice vote with no recorded opposition.²⁹ Despite this bipartisan and unopposed support in the House, the Act died in committee in the Senate.³⁰ However, the key language of the Diverse Perspectives requirement would make its way into subsequent legislation.

In 2006, the U.S. Commission on Civil Rights issued Findings and Recommendations to President George W. Bush and both houses of Congress that linked the absence of diverse perspectives in Title VI-funded Middle East Studies programs to the

²⁷ H.R. REP. NO. 804-811, at 164 (statement of Rep. Howard Berman).

²⁸ *Id.*

²⁹ See, i.e., *H.R.3077 - International Studies in Higher Education Act of 2003*, CONGRESS.GOV, <https://beta.congress.gov/bill/108th-congress/house-bill/3077/actions> (last visited July 7, 2014).

³⁰ See, i.e., *H.R.3077 (108th): International Studies in Higher Education Act of 2003*, <https://www.govtrack.us/congress/bills/108/hr3077> (last visited July 7, 2014).

recent resurgence of anti-Semitism in American higher education.³¹ In these Findings and Recommendations, the Commission found “substantial evidence” that “many university departments of Middle East studies provide one-sided, highly polemical academic presentations and some may repress legitimate debate concerning Israel.”³² In a pointed reference to an incident at Columbia University, the Commission added that this “would include, for example, any program in which a student is told that she may not speak in a discussion of Middle East politics on the ground that she has ethnic Jewish physical characteristics.”³³ Moreover, the Commission found that “there is evidence” that some recent anti-Semitic incidents “are fueled by ideologically biased campus programs that receive operating funds from the federal government under Title VI of the Higher Education Act.”³⁴

Several other institutions weighed in on the inadequacies of Title VI programs. For example, while the Federal Interagency Language Roundtable prepared formal comments that gave Title VI a “fairly good” grade for promoting general area studies, it rated them “considerably poorer” at providing a full range of language competence, calling for “systematic objective assessment” and proposing that Title VI centers “commit to delivering more instruction in language skills at higher levels.”³⁵ In 2008, at the request of Congress, a panel of the National Research Council (“NRC”) for the National Academies,

³¹ U.S. Comm’n on Civil Rights, *Findings and Recommendations of the United States Commission on Civil Rights Regarding Campus Anti-Semitism*, U.S. COMM’N ON CIVIL RIGHTS (Apr. 3, 2006), <http://www.usccr.gov/pubs/050306FRUSCCRRCAS.pdf>.

³² U.S. Comm’n on Civil Rights, *Briefing Report: Campus Anti-Semitism*, U.S. COMM’N ON CIVIL RIGHTS 72 (July 2006), <http://www.usccr.gov/pubs/081506campusantibrief07.pdf>.

³³ *Id.*

³⁴ *Id.* at 1.

³⁵ Martin Kramer, *Title VI Verdict*, SANDBOX.COM (Apr. 3, 2007), <http://www.martinkramer.org/sandbox/tag/title-vi/>.

issued a report titled, “International Education and Foreign Languages: Keys to Securing America’s Future.”³⁶ The panel’s report largely vindicated the reformers’ critique of Title VI, which affirmed not only the importance of foreign languages and the need for additional funding, but also the problem that no oversight exists to determine whether the task is being adequately conducted. Although it was conspicuously not charged with evaluating bias, the NRC panel recommended enhanced oversight, measurement, and reporting.

Congressional Reauthorization and Regulatory Oversight

The House Education and Workforce Committee led a comprehensive reauthorization effort that would ultimately culminate in the passage of the Higher Education Act of 2008 (“HEOA”). The bill was introduced by Representative George Miller (D-CA) and had twenty-nine co-sponsors. Throughout the reauthorization process, bills were aimed at strengthening graduate studies, and enhancing opportunities for

international and foreign language studies [which took] on increased importance in the post-9/11 era. Most notably, the 2008 reauthorization required Title VI grant applicants to demonstrate that their programs would be non-biased. The language varies slightly between the programs, but they all require Title VI programs to provide “diverse perspectives” and a “wide range of views to generate debate on world regions and international affairs” in order to receive federal funding. For some programs, the HEOA requires that “each application for assistance” include “an explanation of how the activities

³⁶ NAT’L RESEARCH COUNCIL, INTERNATIONAL EDUCATION AND FOREIGN LANGUAGES: KEYS TO SECURING AMERICA’S FUTURE (Mary Ellen O’Connell & Janet L. Norwood eds., The National Academies Press 2007).

funded by the grant will reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs”³⁷ For others the HEOA requires that grants include “assurances that the education and training programs of the center will be open to students concentrating in these respective areas, as appropriate, and that diverse perspectives will be made available to students in programs under this section.”³⁸ Similarly, for a third set of programs, the HEOA requires that “[e]ach such application shall include an assurance that, where applicable, the activities funded by the grant will reflect diverse perspectives and a wide range of views on world regions and international affairs.”³⁹ Finally, for other programs the HEOA requires that each submitted application contain “a description of how the activities funded by the grant will reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs” in order to receive funding.⁴⁰ However, Congress did not create an accountability system to ensure that this requirement was met, such as an enforcement system or oversight board. Congress ultimately passed the HEOA, and President George W. Bush signed it into law.

Between October 23, 2008 and June 13, 2011, the Department issued a series of regulations implementing the HEOA, none of which clarified the Diverse Perspectives requirement or even touched upon Title VI.⁴¹ Worse, when the Department announced

³⁷ The Higher Education Opportunity Act of 2008, 20 U.S.C. § 1122(e) (2008); 20 U.S.C. 1124 (a)(7)(F).

³⁸ 20 U.S.C. § 1130-1(f)(3).

³⁹ 20 U.S.C. § 1130a(c).

⁴⁰ 20 U.S.C. § 1131(c)(2).

⁴¹ See “Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program,” 73 Fed. Reg. 63232 (Oct. 23, 2008); “Program Integrity Issues,” 75 Fed. Reg. 66832 (Oct. 29, 2010); “General and Non-Loan Programmatic Issues,” 74 Fed. Reg. 55902 (Oct. 29, 2010); “Foreign Institutions--Federal Student Aid Programs,” 75 Fed. Reg. 67170 (Nov. 1, 2010); and “Foreign Institutions--Federal Student Aid Programs,” 76 Fed. Reg. 34386 (June 13, 2011).

how it would evaluate Title VI funding applications, it revealed that it would not consider the strength of applicants' efforts to achieve Diverse Perspectives. Instead, the Department acknowledged that "[t]he reviewers will read the descriptions, but the descriptions are not scored under the selection criteria."⁴² In other words, the Department would ensure that applicants provide a description, but it would not consider the effectiveness of applicants' proposals in determining whether to provide funding. It would not, for example, score the applicants on the comprehensiveness of program planning or the extent to which recipients engage in self-monitoring. Nor would the Department apply generally accepted principles of educational meta-evaluation to determine whether recipients were properly assessing their own performance. Moreover, the provisions on how Title VI funding applications would be evaluated do not explain what the Diverse Perspectives requirement entails or what an institution must provide in its grant application.⁴³

⁴² *FY 2010 National Resource Centers Program Application: Technical Assistance Responses*, DEP'T OF EDUC. (Mar. 3, 2010), <http://www2.ed.gov/programs/iegpsnrc/nrc-aresponses2010.pdf>.

⁴³ Under "National Resource Centers Program for Foreign Language and Area Studies or Foreign Language and International Studies," the Department asks, "what selection criteria does the Secretary use to evaluate an application for a comprehensive Center/ an undergraduate Center?" 34 CFR 656.21 (2009). The only criteria listed is "the degree to which activities of the Center address national needs, and generate information for and disseminate information to the public," 34 CFR 656.21(c)(3) (2009); 34 CFR 656.22(c)(3) (2009); and "the applicant's record of placing students into post-graduate employment . . ." 34 CFR 656.21(c)(4) (2009); 34 CFR 656.22(c)(4) (2009). In the "Business and International Education Program" section, the Department asks, "what must an application include?" 34 CFR 661.20 (2009). An application must describe the manner in which the organization will carry out the activities proposed in the application, and an assurance that, where applicable, the activities funded by the grant will reflect diverse perspectives and a wide range of views on world regions and international affairs." 34 CFR 660.10 (2009). In its regulations on the "International Research and Studies Program," the Department indicated that it would assist "evaluations of the extent to which" Title VI programs "reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs . . ." 34 CFR 660.10(k)-(m) (2009), but again did not explain the depth of these evaluations or requirements for diverse perspectives.

CURRENT STATUS OF MIDDLE EAST STUDIES PROGRAMS

Reformers continue to demonstrate that Title VI Middle East Studies centers persist in suffering from the problems that the HEOA was enacted to fix. Particularly troubling is that these government-funded centers also disseminate one-sided views to an audience far wider than the college campuses. The centers conduct “public outreach” programs and present their biased views to K-12 teachers, educators, and the general public as part of the Title VI funding program. Currently these outreach programs, which are mandated and funded by Congress, have little or no oversight. At some programs, such as the Title VI program at UCLA’s CNES, commentators have reported that bias problems have persisted unabated since the passage of the HEOA.

From the time that the HEOA was passed, reformers have argued that universities were not taking its Diverse Perspectives requirement seriously. For example, shortly after the HEOA was passed, UCLA’s CNES held a public symposium on January 21, 2009 entitled, “Gaza and Human Rights.” The CNES event consisted of a panel of four extreme critics of Israel challenging the legitimacy of Israel’s existence. Gabriel Piterberg described an “Israeli onslaught on Gaza Palestinians” and labeled IDF soldiers as “war criminals.”⁴⁴ Lisa Hajjar repeated the smear that Israel deliberately targets civilians, and that Israelis

⁴⁴ Gabriel Piterberg, Podcast: *Human Rights and Gaza, Part I* (Jan. 21, 2009), (<http://web.international.ucla.edu/cnes/podcast/104049>). Piterberg currently serves as co-Director of CNES, along with Sondra Hale, a founder and board member of the US BDS (Boycott Divestment and Sanctions against Israel) Movement.

“are war criminals.”⁴⁵ Saree Makdisi declared that Gaza is a “child prison” and that “the goal of Israel is to deliberately starve children.”⁴⁶ During the question and answer portion of the event, the panel riled up the largely non-student audience into chants such as “Zionism is racism,” “Zionism is Nazism,” and “F- Israel.”

In its aftermath, students complained to faculty about how abused and frightened they felt during the event. Dr. Stanley Kurtz wrote that many UCLA faculty and students had condemned the symposium’s “one-sidedness” and criticized the “transformation of CNES from an honest broker of debate into a one-sided advocacy group.”⁴⁷ Kurtz observed that this was “exactly what the new federal legislation was meant to prevent (without interfering in the classroom).” Kurtz also pointed out that the problem was not with the presence of the four critics of Israel that sat on the panel, but rather, with the exclusion of presenting any opposing perspectives. He warned that this exclusion might be representative a broader and intentional pattern of political bias at CNES.⁴⁸

Many other instances at UCLA show how CNES does not take the Diverse Perspectives requirement seriously. On October 29, 2009, Gabriel Piterberg organized a two-day event through CNES, “Invasion is a Structure not an Event: Settler Colonialism Past and Present.” Zachary Lockman labeled Israel the “Zionist entity” and the “Zionist project,” while referring to Palestinians as the “indigenous people.” He compared Israel to

⁴⁵ Lisa Hajjar, Podcast: *Human Rights and Gaza, Part I* (Jan. 21, 2009), (<http://web.international.ucla.edu/cnes/podcast/104050>).

⁴⁶ Saree Makdisi, Podcast: *Human Rights and Gaza, Part I* (Jan. 21, 2009), <http://web.international.ucla.edu/cnes/podcast/104053>.

⁴⁷ Stanley Kurtz, *UCLA Tests Congress*, NAT’L REVIEW ONLINE (Mar. 3, 2009, 4:00 AM), <http://www.nationalreview.com/articles/226994/ucla-tests-congress-stanley-kurtz/page/0/1>.

⁴⁸ *Id.*

apartheid South Africa because it “uses coercion” and concluded that, “colonialism is Zionism.”⁴⁹ Though the event included both Jewish and Israeli speakers, it was intellectually homogeneous. Gershon Shafir, representing the “Jewish perspective,” offered a very weak defense of Israel.⁵⁰ Reportedly, at one point in his timid, so-called “rebuttal” he stated, “I have all kinds of things to say about [Palestinian] violence, but I would get some ugly looks if I do’; he then looked at the other professors, who motioned for him to sit down.”⁵¹

In March 2012, University of California President Mark G. Yudof sent an open letter to the UC community, stressing the need to “foster a climate of tolerance, civility, and open-mindedness” in response to a pattern of disturbing incidents on UC campuses, particularly alleged occurrences of anti-Semitism and anti-Israelism. In response, Piterberg organized a CNES-sponsored a “teach-in” on the letter, claiming the letter “criminalized political dissent” and showed “disproportionate concern for Jewish students.”

⁵² Piterberg alleged that Yudof’s Jewish identity and “Zionist” views rendered him unfit to pass judgment and thus he should resign and become “an AIPAC employee.”⁵³

Furthermore, Piterberg blamed groups sympathetic to Israel for initiating a threatening atmosphere on campus by including speakers who were not biased against Israel.

In November 2010, CNES sponsored a lecture entitled “Preserving the Two-State Solution,” given by Maen Rashid Areikat, the Palestine Liberation Organization’s representative to the U.S. Ambassador Areikat presented Israel as the sole obstacle to

⁴⁹ *Id.*

⁵⁰ Eric Golub, *Israel-Bashing at UCLA*, CAMPUS WATCH RESEARCH (Nov. 10, 2009), <http://www.campus-watch.org/article/id/8648>.

⁵¹ *Id.*

⁵² Gabriel Piterberg, Podcast: *Text-in-Context: A Teach-in on President Yudof’s Letter*, (Apr. 16, 2012), <http://web.international.ucla.edu/cnes/podcast/125619>.

⁵³ *Id.*

peace because of its government's lack of seriousness and its leader's incompetence, accused the Israeli government of sustaining a "brutal military occupation that has denied [Palestinians] their basic human rights,"⁵⁴ and insisted that the Palestinians "cannot be part in this game of deception that the Israelis are undertaking right now by publicly pretending that they are committed to peace efforts."⁵⁵ No alternative viewpoints were offered.

In 2013, CNES hosted another event, "Return of the Brothers: Student Activism and Islamic Politics in Egypt," where lecturer Abdulla Al-Arian spoke about the Muslim Brotherhood in Egypt. Al-Arian claimed that the Brotherhood has moved away from its radical roots, praising then Egyptian President and Muslim Brotherhood leader Mohammed Morsi as a product of this "era of moderation." Al-Arian did not mention the Muslim Brotherhood's involvement in terrorism; role in the assassination of Egyptian President Anwar Sadat, distribution of classic anti-Semitism, condemnation of Christianity and secularism; and promotion of "stealth jihad" to sabotage Western civilization from within, patterns which, inter alia, have led to the brotherhood since being banned in Egypt.

On November 25, 2013, UCLA's CNES held a book talk, "Our Harsh Logic: Israeli Soldiers' Testimonies from the Occupied Territories," by Yehuda Shaul. Shaul, an Israeli, and former commander and platoon sergeant in the Israeli Defense Forces ("IDF"), co-founded and co-directs "Breaking the Silence," an Israeli Non-governmental Organization ("NGO") which states on its website that they are "an organization of veteran combatants who have served in the Israeli military since the start of the Second Intifada and have taken it upon themselves to expose the Israeli public to the reality of everyday life in the Occupied

⁵⁴ AMCHA Initiative, *supra* note 3, citing Ambassador Maen Rashid Areikat, *Preserving the Two-State Solution* (Nov. 13, 2010) (transcript available at <http://128.97.165.17/cnes/podcasts/article.asp?parentid=118509>), at 31:30.

⁵⁵ *Id.* at 34:58.

Territories.”⁵⁶ The event description notes that, although the IDF is considered to be “the most moral army in the world,” these IDF veterans describe their mission as “spreading fear and subjugation, accelerating Jewish settlement and the acquisition of Palestinian land, crippling all political and social life, and ultimately thwarting any possibility of independence.” Shaul outlined various practices that undoubtedly some would deem objectionable, but that hardly constitute war crimes and in many cases, are simple realities of military life. Most importantly, Shaul consistently left out the context of Palestinian terrorism, even as he referenced the Second Intifada on several occasions.

On February 24, 2014, Ilan Pappé, a professor at the University of Exeter, an Israeli expatriate historian and anti-Israel activist, lectured on Israeli policy before and after the June 1967 war, which, he argued, was “a direct continuation of the 1948 Nakbah [‘catastrophe’ in Arabic].” Pappé has called for an international boycott of Israeli academics and has argued that the Boycott, Divestment and Sanctions (“BDS”) movement is the best means to end Israeli-occupation and prevent another “Nakba.”⁵⁷ Pappé’s talk castigated Israel as a “settler-colonialist state” that engages in “criminality” by its very existence. The juxtaposition of “victim and victimizer” came up repeatedly, as did comparisons to the Nazis. At one point, Pappé stated ominously, “[p]eace is not the only means of bringing an end to an oppression, in this case colonization, dispossession, and ethnic cleansing.” There were no challenges to this narrative during his talk, or in the

⁵⁶ *About Us*, Breaking the Silence, <http://www.breakingthesilence.org.il/about/organization> (last visited July 17, 2014).

⁵⁷ Ilan Pappé, *The Boycott Will Work, an Israeli Perspective* (May 16, 2012, 0:00 AM), <http://ceasefiremagazine.co.uk/ilan-pappe-boycott-work-israeli-perspective/>.

subsequent question and answer period. CNES invited Pappé to speak without providing a differing or even mainstream viewpoint.

The AMCHA Initiative recently released a report chronicling the activities of UCLA's CNES, from 2010 to 2013. The AMCHA report shows that CNES has placed disproportionate emphasis on the State of Israel, despite the wrenching conflicts that wracked other parts of the Middle East during this period. Out of the 149 CNES-sponsored or co-sponsored public events that related to 14 specific Middle East countries, more than one-quarter (40 or 27%) focused on Israel. Moreover, CNES' coverage of Israel disproportionately focused on Israel's conflict with Palestinian Arabs, while its treatment of other countries often addressed less polarizing subjects such as art and culture. Specifically, most (30, or 61%) of CNES' public events pertaining to significant Middle-East political conflicts focused on the Arab-Israeli conflict. Furthermore, AMCHA found that not one single event spoke positively about Israel's government, its laws, society or people. In AMCHA's analysis, 93% of the events exhibited bias against Israel.

Reformers have argued that Title VI programs at other universities have also failed conspicuously to reflect diverse perspectives even after HEOA's provisions became effective. Various examples illustrate how Middle East centers funded under Title VI have failed to comply with federal law, using taxpayer dollars to present biased, anti-American, anti-Israel views in their outreach programs.⁵⁸ At the University of Texas, Austin, Professor Samer Ali called Israel a "racist" state, implied parallels to Nazi behavior by stating that no group should claim superiority over another "like Zionists do," and claimed to be the subject of a "pro-Zionist fatwa." The UNC-Chapel Hill and Duke University Consortium for Middle

⁵⁸ See *Joint Statement on the Misuse of Federal Funds Under Title VI*, App. (July 2014).

East Studies has held events seeking to delegitimize Israel by characterizing it as an “oppressive state” that violates countless human rights, claiming that Israel practices South African-style apartheid, and comparing the Palestinians to the Native Americans in the United States. The University of Pennsylvania, Cornell University, Tufts University, Brown University, University of North Carolina-Chapel Hill, and Columbia University hosted public screenings of the film “The Great Book Robbery,” which claims that the modern state of Israel at its founding in 1948 victimized Palestinians by stealing both their homes and, through their books, Palestinian culture. Again, no alternative views were offered.⁵⁹

Campus Watch, for example, has reported that in 2011 at U.C. Berkeley’s Center for Middle East Studies, Gilbert Achcar, Professor of Development Studies and International Relations at the University of London’s School of Oriental and African Studies, spoke to promote his 2010 book, “The Arabs and the Holocaust: The Arab-Israeli War of Narratives.” Achcar’s book joins a growing body of scholarship that employs Holocaust studies to deny Israel’s legitimacy and downplay contemporary Islamic anti-Semitism. The event was supposed to discuss Arab attitudes to Zionism, anti-Semitism, Nazism, and the Holocaust, from the aftermath of World War I to our time. However, the event was clearly one-sided and anti-Israel from the outset. Achcar began his lecture by stating, “[d]on’t expect me to take a pro-Israel view. I’m an Arab.” While admitting there had been a rise in anti-Semitic Islamic resistance, Achcar characterized these terrorist acts as “counter-violence” that “pale[] in scale” to Israel, “the most powerful state in the region.”

⁵⁹ *See id.*

Finally, Achcar downplayed the atrocities of the Holocaust, arguing, “Holocaust denial is a form of protest.”⁶⁰

Needless to say, the reformers’ perspective has not been universally shared. For example, Cary Nelson, as then-national president of the American Association of University Professors, wrote in 2010 that “tension and misrepresentation reign supreme” in what he called the “campus incarnations of the Arab-Israeli conflict.”⁶¹ Nelson argues that both sides in this debate perceive themselves as victims. Some academics critics of Israel, for example, perceive themselves as besieged by Israel’s off-campus supporters. Nevertheless, Nelson conceded that scholars who are sympathetic to Israel face extraordinary pressures within academia. “Indeed,” he wrote, “faculty and students with sympathies for Israel encounter implacably pro-Palestinian attacks in multiple settings; these include departments where no candidates who has written in support of Israel in general or a two-state solution in particular would even be considered for a job.”⁶² Significantly, Nelson confirmed that this problem is greatest in precisely in the kinds of program that Title VI funds. “The prohibition would apply most strongly when Middle East studies is part of the job description,” he wrote, “but it can extend to positions for which it is not directly relevant to the advertised area of teaching and research.”⁶³

Reformers have demonstrated that Title VI funding continues to support biased programming. In July 2014, 10 organizations convened by the Louis D. Brandeis Center for Human Rights Under Law co-signed a “Joint Statement on the Misuse of Federal Funds

⁶⁰ *Id.*

⁶¹ CARY NELSON, NO UNIVERSITY IS AN ISLAND: SAVING ACADEMIC FREEDOM 109 (2010).

⁶² *Id.* at 110.

⁶³ *Id.*

Under Title VI⁶⁴ (the “Joint Statement”) expressing concern that unless effective and necessary reforms are enacted, Congress may have to consider reducing or eliminating Title VI funding from Middle East studies centers. The Joint Statement recommends a two-step approach to ensure accountability and transparency to effectuate the 2008 congressional reforms: first, recipients of Title VI funds should establish grievance procedures to address complaints that programs are not reflecting diverse perspectives and a wide range of views; and second, the Department of Education should establish a formal complaint-resolution process to enforce Title VI.⁶⁵ Signatories to the Joint Statement, in addition to the Louis D. Brandeis Center, include Accuracy in Academia; AMCHA Initiative; American Association of Jewish Lawyers and Jurists; Endowment for Middle East Truth; Middle East Forum; Scholars for Peace in the Middle East; Simon Wiesenthal Center; the Union of Orthodox Jewish Congregations; and Zionist Organization of America.

⁶⁴ *Id.*

⁶⁵ *Id.*

Analysis

While the introduction of the Diverse Perspectives requirement served as a step in the right direction, the International Area Studies and Foreign Language programs funded under the HEOA, specifically 20 U.S.C. §§ 1122, 1124, 1130-1, 1130a, and 1131, are still vulnerable to abuse by biased programs at universities throughout the United States. The problems with Title VI of the Higher Education Act fall into three general categories: (1) Congress' failure to create an enforcement mechanism, such as a complaint-resolution procedure, to ensure that the Diverse Perspectives requirement is met; (2) the Department of Education's failure to issue implementing regulations to clarify the requirement; and (3) the Department's failure to provide adequate regulatory oversight.

Congress' Failure to Provide an Enforcement Mechanism

Many observers have noted that inadequate oversight exists to ensure that Title VI grantees are meeting their commitments. In particular, students, faculty, and others do not currently have a means of reporting programs that fail to provide the Diverse Perspectives that each grantee promises to provide. While the Office of Inspector General ("OIG") is mandated to investigate cases of waste, fraud, or abuse, no proper complaint-resolution procedure exists to ensure compliance with the HEOA's key Diverse Perspectives requirement. This omission harms both the injured party and the Department of Education, as it dissuades intellectual freedom on the university campus

and encourages misuse of federal funds. The Department should ensure compliance in a cost-effective manner, utilizing investigative and compliance resources that are already available.

The Department currently has a robust complaint-resolution process to enforce claims under Title VI of the Civil Rights Act of 1964.⁶⁶ If the Office of Civil Rights (“OCR”) in the Department of Education utilized a similar process to enforce the Diverse Perspectives requirement at Title VI-funded schools, it would carry minimal cost, and allow the Department to properly exercise oversight over non-compliant universities. Strengthening Title VI to allow individuals to file formal legal complaints with the Department of Education against universities that violate the Diverse Perspectives requirement could serve the interests of both the injured parties and the government. Without such protection, those who hold opposing views to those of the professor remain vulnerable to bullying, ridicule, and infringement on their right to express their political beliefs.

The Department of Education’s Failure to Provide Adequate Oversight

The Department of Education has exacerbated this problem by failing to provide implementing regulations that clarify the Diverse Perspectives requirement. In the HEOA, Congress added the Diverse Perspectives requirement but did not define this term. Similarly, the Department of Education has not clarified the requirement, nor has it established a regulatory process that can properly implement it. In particular, the

⁶⁶ See The Civil Rights Act of 1964, 42 U.S.C.S. § 2000d-2.

Department has not indicated what is required by the Diverse Perspectives requirement or how it can best be implemented. Worse, the Department has signaled its inattention to this issue by conceding that it does not review applicants' proposals for the effectiveness of their plans to include diverse viewpoints. Finally, it appears that the Department does not ensure compliance with this requirement through well-established processes that it uses to monitor grantees actions under other programs.

Section 602(3)(e)(1) of the HEOA states that each institution seeking funding must submit an application to the Secretary providing an explanation of how the activities funded by the "grant will reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs." Section 604(5)(f) requires that the applicant provide an explanation of "how the activities funded by the grant will reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs." Section 605(10) adds "evaluation of the extent to which programs assisted under this title reflect diverse perspectives and a wide range of views and generate debate on world regions." However, neither Congress nor the Department of Education has explained what the grantee's application must provide to receive federal funding or what procedures should be implemented to assure that the international studies departments that were receiving federal funding were actually presenting "diverse perspectives." While the Secretary of Education maintains wide discretion to decide whether to approve or deny an application for Title VI funding, the language offers little guidance on the criteria necessary for the Secretary to award grants under these sections, most often allowing approval so long as the program is of "national significance." The

Department here has failed to issue implementing regulations or to conduct proper oversight.

The Department's failure to clarify the Diverse Perspectives requirement has meant that universities applying for Title VI funding do not know what must be done to achieve "diverse perspectives," and government officials do not know what to look for in reviewing applications. This increases the prospect of noncompliance, which also creates problems for academic freedom, since the protections afforded to academic discourse are not enumerated. If the Diverse Perspectives requirement means anything, it means that universities receiving Title VI funding must present distinct and differing viewpoints in their public outreach programs that foster positive learning outcomes, establish a critical mass of diverse viewpoints, ensure that this diversity relates to substantive perspectives, address the key substantive areas that reformers have identified, do not encroach upon curricular decisions or academic freedom, and are periodically monitored by each institution.

RECOMMENDATIONS FOR MORE EFFECTIVE

TITLE VI FUNDING

Title VI funds have been greatly reduced when misused in the past – in 2011, Congress reduced Title VI funding nationwide by 40 percent, from \$34 million to \$18 million. If changes are not made in the upcoming reauthorizing, Congress may have to consider reducing or eliminating Title VI funding from Middle East Studies centers. Congress, the Department of Education, and the universities themselves all have a role in satisfying the purposes for which Title VI was established: requiring recipients of Title VI funds to establish grievance procedures to address complaints that programs are not reflecting diverse perspectives and a wide range of views; better defining of key terms in the statute through Department of Education regulations; and establishing a formal complaint-resolution process allowing students, faculty, and others to apprise the Department of noncompliance.

A. Recommendations to the Universities

Establish a 3-step compliance procedure

Universities should ensure that their Middle East Studies programs satisfy their intended purposes, meet high levels of academic quality, and reflect a diversity of academically legitimate perspectives on the subject. Universities that take diverse perspectives seriously will establish a three-stage process for ensuring compliance with

federal standards: (i) faculty will ensure that public outreach programs reflect the full range of academically legitimate perspectives on each issue; (ii) faculty will utilize generally accepted standards of postsecondary educational evaluation; and (iii) administration should establish a grievance procedure to bolster compliance with this requirement.

1. Faculty should ensure that public outreach programs reflect the full range of academically legitimate perspectives on each issue

Faculty should ensure that public outreach programs reflect the full range of academically legitimate perspectives on each issue. Universities must protect the academic freedom of all scholars, which includes redressing the situation in which some Middle East Studies programs are reportedly closed to scholars with viewpoints sympathetic to Israel. Universities should ensure that a critical mass of diverse perspectives is included within their Title VI public outreach programs.

2. Faculty should utilize generally accepted standards of postsecondary educational evaluation to review Title VI-funded programs

Universities can also ensure transparency in their Title VI Middle East Studies programs by establishing a reporting standard, requiring each institution to report all public-outreach programs supported through Title VI funding that it hosted during the academic year. Universities should also be required to report all efforts they undertake in order to maintain a diversity program that represents a wide range of political views. As Gary Tobin, et al., recommend, committees of scholars should be established, both from within the individual institutions outside of them, to review of the level of scholarship,

quality of teaching, and objectivity of the programming.⁶⁷ In light of the one-sidedness of the Middle East Studies subculture, it will be necessary to include scholars and analysts from outside this area of study. To ensure utmost fairness, faculty representatives from Middle East Studies and other disciplines, including Israel studies, as well as non-faculty representatives, should be included in this process, and these efforts should be publicized by the university, both internally and externally. Such review must be ongoing until it is clear that such departments and institutes conform to norms of both quality and honest scholarship and teaching.⁶⁸

3. Administrations should establish an internal grievance procedure to bolster compliance

University administrations should establish internal grievance systems, which will help ensure that Middle East Studies programs remain unbiased, open to scholarly debate, and welcome a wide range of political world-views. This grievance procedure need not be elaborate but should enable students or faculty to raise compliance concerns internally with the university. This grievance procedure can be similar to procedures already in place to ensure compliance with other legal requirements.

⁶⁷ GARY A. TOBIN, ARYEH K. WEINBERG & JENNA FERER, *THE UNCIVIL UNIVERSITY* 216 (San Francisco: Institute for Jewish & Community Research 2005).

⁶⁸ *See id.*

B. Recommendations to the Department of Education

1. *Clarify the Diverse Perspectives requirement*

The Department should issue regulations fully implementing HEOA by clarifying the Diverse Perspectives requirement and explaining the actions that it will take to ensure compliance. Diverse Perspectives should be defined to require universities receiving Title VI funding to present distinct and differing viewpoints in their public outreach programs that (i) foster positive learning outcomes, (ii) establish a “critical mass” of diverse viewpoints, (iii) ensure that this diversity relates to substantive perspectives, (iv) address the areas that HEOA was intended to address, and (v) fully protect the academic freedom of students and professors and do not encroach upon curricular decisions or classroom instruction. The success of universities following this new definition can be achieved through the Department offering public education and proper technical assistance to recipients of Title VI funding.

2. **Ensure compliance by strictly evaluating each application and periodically monitoring each program**

The Department should ensure compliance with this requirement at both the application stage and throughout the period of each grant. In scoring each application, the Department should evaluate the comprehensiveness and effectiveness of each applicant’s plans to provide such perspectives, taking into account efforts to assure a critical mass of diverse views, internal review procedures to ensure quality, protections for academic freedom, and the availability of internal grievance procedures within each applicant institution. These scores should be used in selection decisions. To ensure

ongoing compliance, the Department should monitor each recipient institution throughout the grant cycle.

C. Recommendations to Congress

Establish an Accountability System

Congress should establish an accountability system to hold Title VI programs accountable for meeting HEOA's requirements, especially with respect to the Diverse Perspectives requirement. Congress should direct the Department to establish a formal compliance process similar to that in use to enforce Title VI of the Civil Rights Act of 1964. This would include a complaint-resolution system, a program of proactive compliance reviews, and a program of technical assistance and public education. This process would ensure that universities satisfy their grant commitments to include diverse perspectives within public outreach programs, while protecting against violations of academic freedom.

CONCLUSION

Though created to serve a legitimate purpose, the goals of Title VI are not being realized. Its lack of oversight and enforcement is leading to heterogeneous and discriminatory presentations in Middle East Studies programs, rather than the “diverse perspectives and wide range of views” sought by the Higher Education Act.

As Congress turns to the reauthorization of the HEA, it must complete the job that it began in 2008 by mending or ending Title VI funding. It is a huge waste of money to reauthorize funding for an ill-supervised program that does not serve its intended purpose and that creates a host of other problems. If Congress continues to fund Title VI, it should require the Department of Education to establish a formal complaint-resolution process and to enforce Title VI just as it does with other comparable programs. In turn, the Department should issue implementing regulations, which it failed to do properly in 2008, under which the Department should evaluate university plans and performance to ensure that Diverse Perspectives are included. Universities should play their role as well, reforming Title VI programs from within, ensuring the inclusion of diverse perspectives, providing appropriate program review, and establishing a grievance procedure as a protection against noncompliance.

By enacting these effective and necessary reforms, Congress and the Department may be able to avoid reducing or eliminating Title VI funding from Middle East Studies centers, and instead, achieve the basic objectives of Title VI and the Diverse Perspectives



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requirement. If appropriate reforms cannot be undertaken, Congress may need to defund Title VI altogether.

APPENDIX

JOINT STATEMENT ON THE MISUSE OF FEDERAL FUNDS UNDER TITLE VI

We, the undersigned, are deeply concerned about the misuse of federal funds under Title VI of the Higher Education Act (“HEA”). Despite congressional reforms adopted during the 2008 reauthorization of the HEA, many recipients of federal aid under Title VI continue to use taxpayer funds to support biased, politicized, and imbalanced programs of Middle East Studies. These programs fail to satisfy Title VI’s intended purpose, flout congressional intent, and thwart American national security and foreign policy interests. We support efforts to effectuate the intention underlying the 2008 congressional reforms. In particular, we support accountability and transparency measures to implement the 2008 congressional action.

Background

Enacted by Congress to strengthen the nation’s security by training future national security professionals and educating the public on international affairs, Title VI provides federal funds to 129 international studies and foreign language centers at universities nationwide.

Such centers are obligated by statute to conduct “public outreach” programs for K-12 teachers, educators, and the general public in return for Title VI funds. Today these

outreach programs, which have no congressional oversight, often disseminate anti-American and anti-Israel falsehoods.

In 2006, Congress mandated a review of Title VI-funded programs by the National Research Council. Their report, issued in 2007, found that Title VI programs had become ineffective in achieving their original goals, and greater oversight by the Department of Education was needed. The programs used taxpayer funding to disseminate biased one-sided views that criticized American foreign policy and national security.

During the 2008 reauthorization of the HEA, Congress sought to address these concerns. The statute was amended, adding that “grants should be made . . . on the condition that” descriptions, assurances, or explanations are provided on how the program “will reflect diverse perspective and a wide range of views and generate debate on world regions and international affairs.”

Current Problems

The evidence shows that many centers funded under Title VI still do not serve the basic objectives of the program, namely, to advance American national security and international relations interests. They too often exclude scholars with diverse perspectives while stifling discourse on critical issues. The biased learning environment that results suppresses the academic freedom of students and faculty with different views. At some institutions, students are afraid to disagree with their professors.

Particularly troubling is that these government-funded centers also disseminate one-sided views to an audience far wider than on our college campuses. The centers conduct “public outreach” programs as a condition of receiving Title VI funds and present their biased and often inaccurate views to K-12 teachers, educators, and the general public. Teachers, educators, and members of the public are thus being misled by programs that promote a particular political agenda, rather than a balanced and accurate perspective. Rather than serve American national security and foreign policy interests, these programs do the opposite.

These problems have persisted despite the 2008 congressional reforms that were intended to curb them. There are more than just a few isolated examples of the problem. In 2014, the AMCHA Initiative issued a report chronicling the public outreach activities of UCLA’s Center for Near East Studies (CNES), funded in part by Title VI, from 2010 to 2013. Among its findings:

Of 149 public events sponsored in full or in part by CNES related to fourteen Middle Eastern countries, more than one-quarter of the events (40, or 27 percent) focused on Israel.

Of 49 public events relating to significant Middle East political conflicts, 30, or 61 percent of the events focused on the Arab-Israeli conflict.

Of 28 Israel-related public events, 93 percent exhibited bias against Israel.

There are many examples of similar bias at other Title VI recipients:

Speaking at a 2011 event on “The Arabs and the Holocaust” at UC-Berkeley, Gilbert Achcar of the University of London began his lecture by stating, “Don’t expect me

to take a pro-Israel view. I'm an Arab." He characterized terrorist acts as "counter-violence" that "pales in scale" to actions by Israel, and asserted that "Holocaust denial is a form of protest."

At the University of Texas, Austin, Professor Samer Ali called Israel a "racist" state, implied parallels to Nazi behavior by stating that no group should claim superiority over another "like Zionists do," and claimed to be the subject of a "pro-Zionist fatwa."

The UNC-Chapel Hill and Duke University Consortium for Middle East Studies has held events seeking to delegitimize Israel by characterizing it as an "oppressive state" that violates countless human rights, claiming that Israel practices South African-style apartheid, and comparing the Palestinians to the Native Americans in the United States.

Cornell, Tufts, Brown, UNC-Chapel Hill, and Columbia hosted public screenings of the film "The Great Book Robbery," which claims that the modern state of Israel at its founding in 1948 victimized Palestinians by stealing both their homes and, through their books, Palestinian culture. No alternative views were offered.

As these examples illustrate, Middle East centers funded under Title VI have failed to comply with federal law, by using taxpayer dollars to present biased, anti-American, anti-Israel views in their outreach programs.

A proposed solution

Systems are needed to ensure accountability and transparency to effectuate the 2008 congressional reforms. We recommend the following two steps as a means of



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dealing with the problem that Title VI programs have no measure of accountability after receiving taxpayer funding:

Require recipients of Title VI funds to establish grievance procedures to address complaints that programs are not reflecting diverse perspectives and a wide range of views.

Require the U.S. Department of Education to establish a formal complaint-resolution process similar to that in use to enforce Title VI of the Civil Rights Act of 1964. (This would not have a material effect on the Department's budget given the existence of an investigative and enforcement arm already available to address noncompliance with other statutes.)

Arguably, Title VI programs no longer serve a legitimate purpose because they have been disserved by the centers. In 2011, Congress reduced Title VI funding nationwide by 40 percent, from \$34 million to \$18 million. Unless effective and necessary reforms can be enacted, Congress may have to consider reducing or eliminating Title VI funding from Middle East Studies centers.

Respectfully submitted,

ACCURACY IN ACADEMIA
AMCHA INITIATIVE
AMERICAN ASSOCIATION OF JEWISH LAWYERS AND JURISTS
ENDOWMENT FOR MIDDLE EAST TRUTH
THE LOUIS D. BRANDEIS CENTER FOR HUMAN RIGHTS UNDER LAW
MIDDLE EAST FORUM
SCHOLARS FOR PEACE IN THE MIDDLE EAST
SIMON WIESENTHAL CENTER
UNION OF ORTHODOX JEWISH CONGREGATIONS
ZIONIST ORGANIZATION OF AMERICA