



CAMPUS COUNSEL

A legal blog written for administrators, HR professionals, in-house counsel, and deans at colleges and universities

District of Mass. Rules on Title VI Antisemitism Case

BY BOWDITCH & DEWEY • AUGUST 8, 2024

On July 30, a Massachusetts federal judge ruled that the Massachusetts Institute of Technology (MIT) was not deliberately indifferent to antisemitism on its campus, and provided some guidance as to how courts may interpret future Title VI claims, particularly those arising out of student protests.

In the MIT case, students accused the institution of violating Title VI of the Civil Rights Act, which prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance. The students, who are Jewish, argued that MIT's response to incidents of antisemitism that they experienced — including speech and physical conduct that the court wrote “posed a genuine threat to the welfare and safety of Jewish and Israeli students”— was insufficient and reflected a systemic disregard for the needs and safety of Jewish students.

In the ruling, U.S. District Judge Stearns dismissed the claims, holding that they did not rise to the level of deliberate indifference, a “stringent standard of fault” requiring proof that the institution exhibited a purposeful disregard for discriminatory behavior. As the court stated, to show deliberate indifference, the plaintiffs would have to prove that MIT “affirmatively cho[se] to do the wrong thing, or do nothing, despite knowing what the law requires.”

The court ruled that the MIT student plaintiffs failed to meet the deliberate indifference standard because MIT responded to their concerns by implementing measures to combat discrimination, including initiatives aimed at fostering an inclusive environment, and escalating application of discipline for breach of college policies, including policies related to discrimination, events, chalking, and other protest-related activities. While the court considered the alleged ongoing conduct directed at Jewish students to be serious, it emphasized that MIT's response demonstrated a genuine commitment to addressing and preventing discrimination. The court recognized that even if MIT's actions, in hindsight, were less successful at combating antisemitism than those used by other institutions, MIT's “evolving” response was not clearly unreasonable, and therefore not in violation of Title VI.

The court ruling stands in contrast to recent Resolution Agreements with the Department of Education's Office for Civil

Rights (OCR), which have largely found institutional responses to antisemitism and Islamophobia to be lacking, even when they include complaint mechanisms, educational programs, and support systems. As mentioned in our [June 28 blog post “Changing Requirements for Title VI Compliance?”](#), OCR has required colleges and universities to respond in a circumscribed way – including by more thoroughly investigating incidents involving protected speech – in addition to having policies and procedures and support mechanisms in place.

For educational institutions, especially those in Massachusetts, this case signals that civil liability, based on the deliberate indifference standard, may be a higher bar for plaintiffs to reach than the type of non-compliance that would trigger an OCR investigation.

CLIENT TIP

Educational institutions should note that MIT avoided liability in this case by having policies, procedures, and practices in place to address Title VI concerns in a systematic manner. These include not only non-discrimination policies, but also policies related to events and posting materials. As we wrote earlier this summer, now is the time to review your Title VI compliance to make sure it is in line with both the District of Massachusetts’ and OCR’s requirements. Please contact the Bowditch Higher Education team for assistance.