

## **Resolution Opposing the Free Speech and Intellectual Freedom Restrictions in the Combating BDS Act, Anti-Semitism Awareness Act, and Related Legislation**

Whereas, the American Library Association (ALA) “opposes any use of governmental prerogatives that lead to the intimidation of individuals or groups and discourages them from exercising the right of free expression as guaranteed by the First Amendment to the U.S. Constitution” (ALA Policy B.2.4 Governmental Intimidation);

Whereas, ALA “opposes any legislation or codification of documents . . . that undermine academic or intellectual freedom, chill free speech, and/or otherwise interfere with the academic community’s well-established norms and values of scholarship and educational excellence” (ALA Policy B.2.5 Support of Academic Freedom);

Whereas, such bills as S.1, the Strengthening America's Security in the Middle East Act of 2019, which the U.S. Senate passed on February 5, 2019, and its companion bill H.R.336 in the House include the Combating BDS Act, which the American Civil Liberties Union (ACLU) has explained, “would condone state laws penalizing businesses and individuals who participate in boycott, divestment, or sanctions (‘BDS’) activities and other politically motivated boycotts against Israel and Israeli controlled territories”;

Whereas, the ACLU has determined that the intent of the Combating BDS Act is “contrary to the spirit and letter of the First Amendment guarantee of freedoms of speech and association;” and the National Coalition Against Censorship has similarly opposed the act on First Amendment grounds; and while ALA does not currently take a position on the political views of BDS or anti-BDS supporters, we strongly oppose efforts to stifle political expression; and

Whereas, in *NAACP v. Claiborne Hardware Co.* (458 U.S. 886 (1982)), the Supreme Court ruled that the First Amendment protects political boycotts as protected speech;

Whereas, Boycott, Divestment, and Sanctions (BDS) is a movement, modeled after the struggle against apartheid in South Africa, which calls for pressure on Israel to attain Palestinian rights;

Whereas, federal courts have struck down provisions of state anti-BDS laws that required people to sign a pledge not to participate in BDS activities as a condition of public employment or ability to enter into a contract with a public agency, the sort of anti-BDS legislation condoned by the Combating BDS Act;

Whereas, S.852 and H.R. 4009, the Anti-Semitism Awareness Act of 2019, currently before Congress, provides a definition of anti-Semitism to be used for the enforcement of Federal antidiscrimination laws concerning education programs or activities;

Whereas, as noted in the Act, the Department of Education is already empowered to investigate incidents of anti-Semitism as a form of discrimination;

Whereas, according to the ACLU, the “overbroad definition of anti-Semitism” in the Anti-Semitism Awareness Act “risks incorrectly equating constitutionally protected criticism of Israel with anti-Semitism, making it likely that free speech will be chilled on campuses”; and

Whereas, the ACLU, the Alliance for Academic Freedom, the Center for Constitutional Rights, Defending Rights & Dissent, the Foundation for Individual Rights in Education, PEN America, and Kenneth Stern, a primary author of the definition of anti-Semitism employed in the bill, have all opposed previous versions of the bill or the current version of the Anti-Semitism Awareness Act; now therefore be it

Resolved, that the American Library Association, on behalf of its members:

1. opposes S.1 and H.R.336 as introduced, and any other current or future versions of these bills that would continue to infringe on the free speech rights of supporters of the movement for Palestinian rights, including supporters of the BDS movement; and
2. opposes S.852 and H.R. 4009 as introduced, and any other current or future versions of these bills that would threaten to chill free speech on college campuses of supporters of the movement for Palestinian rights, including supporters of the BDS movement; and
3. opposes any federal, state, or local legislation, or campus policy that would restrict, or that currently restricts, First Amendment rights, that include speech through boycotts, of supporters of the movement for Palestinian rights or other political movements; and
4. opposes anti-Semitism, [Islamophobia](#), and all other forms of racism, and remains concerned about the increase in bigotry-motivated violence; and
5. send copies of this entire resolution to all members of Congress and all civil liberty organizations named in the resolution