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California's school antisemitism law challenged in court

By Eric He

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The American-Arab Anti-Discrimination Committee is seeking to invalidate a new California law aimed at addressing antisemitism in schools, claiming in a lawsuit that it will have a chilling effect on what teachers and students can say about Israel.

What happened: The lawsuit, filed in federal court in San Jose, mirrors concerns raised by teachers unions and pro-Palestinian groups about AB 715, alleging the law is unconstitutionally vague and violates the First Amendment rights of teachers and students.

The measure, which was signed by Gov. Gavin Newsom last month and takes effect on Jan. 1, requires teachers to be "factually accurate" in lessons and avoid "advocacy, personal opinion, bias or partisanship." It also creates a new Office of Civil Rights in the state to house an antisemitism prevention coordinator who will consult with school districts and lawmakers.

The American-Arab Anti-Discrimination Committee, an advocacy group, was joined by teachers, students and others in filing the lawsuit, which contends the law was "hastily written" and fails to define antisemitism, leaving teachers with "inadequate guidance as to what constitutes unlawful discrimination." The lawsuit also claims that "factually accurate" instruction can include "ideas and information that may be interpreted as critical of the State of Israel and the project of Zionism" and that the law will prevent students from "learning about differing perspectives on Israel, Palestine and the Middle East."

David Bocarsly, executive director of the Jewish Public Affairs Committee of California, said in a statement that the group was "disappointed by efforts to undermine" protections in the law for Jewish students and to "minimize the threats Jewish students face." He said the "common-sense law ensures that Jewish students receive the same protections as all other vulnerable groups in our schools."

Representatives for Gov. Gavin Newsom and Attorney General Rob Bonta, who are named defendants, did not immediately respond to requests for comment. A spokesperson for the California Department of Education declined comment, citing pending litigation.

Key context: The bill, pushed by the Legislature's Jewish Caucus, was one of the most controversial proposals of the legislative session after it spiraled into a proxy for Israel's war in Gaza against Hamas. It faced steep opposition from education groups such as the powerful California Teachers Association, which were concerned that it could lead to teachers censoring themselves.

An earlier version of the measure defined an "antisemitic learning environment" as one that allowed tropes such as portraying Jews as "privileged or wealthy" or course curriculum with messaging "directly or indirectly denying the right of Israel to exist." State officials were to be "informed by the lived experience" of Jewish students when deciding if a school had met the criteria. The bill's authors, however, removed the language days before a final vote in an attempt to win over dubious lawmakers.

The law instead refers schools to a 2023 document published by officials in then-President Joe Biden's administration on countering antisemitism for guidance on "how to identify, respond to, prevent, and counter antisemitism." The document does not endorse a definition of antisemitism but references one adopted by the International Holocaust Remembrance Alliance, which says in part it is "a certain perception of Jews, which may be expressed as hatred toward Jews."

Jenin Younes, national legal director for the American-Arab Anti-Discrimination Committee and an attorney for the plaintiffs, said in an interview that the group may have held off on suing over the law if it stated that criticism of Israel or the “philosophy of Zionism” is not antisemitic.

Younes conceded that while the law has some "legitimate purposes” such as stopping people from drawing swastikas on school grounds and that some restrictions on curriculum is appropriate, the measure “targets certain viewpoints for punishment, and then also sweeps up a lot of protected speech.”

What's next: Younes said the group will seek a preliminary injunction to strike down the law before it takes effect in January. Newsom, in a message explaining his decision to sign the measure, called for follow-up legislation next year to address “urgent concerns about unintended consequences.”