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Text of H.R. 3724, End Woke Higher Education Act[Showing the text of H.R. 3724 and H.R. 7683, as reported by the Committee on Education and the Workforce, with modifications]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “End Woke Higher Education Act”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1.Short title; table of contents.

TITLE I—ACCREDITATION FOR COLLEGE EXCELLENCE

Sec. 101.Short title.

Sec. 102.Prohibition on political litmus tests in accreditation of institutions of higher education.

Sec. 103.

Rule of construction.

TITLE II—RESPECTING THE FIRST AMENDMENT ON CAMPUS

Sec. 201.Short title.

Sec. 202.Sense of Congress.

Sec. 203.Disclosure of free speech policies.

Sec. 204.Freedom of association and religion.

Sec. 205.Free speech on campus.

Sec. 206.Enforcement.

TITLE I—ACCREDITATION FOR COLLEGE EXCELLENCE

SEC. 101. SHORT TITLE.

This title may be cited as the "Accreditation for College Excellence Act of 2024".

SEC. 102. PROHIBITION ON POLITICAL LITMUS TESTS IN ACCREDITATION OF INSTITUTIONS OF HIGHER EDUCATION.

(a) OPERATING PROCEDURES REQUIRED.—Section 496(c) of the Higher Education Act of 1965 (20 U.S.C. 1099b(c)) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) in paragraph (9), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(10) confirms that the standards for accreditation of the agency or association do not—

"(A) except as provided in subparagraph (B)—

"(i) require, encourage, or coerce any institution to—

"(I) support, oppose, or commit to supporting or opposing—

"(aa) a specific partisan, political, or ideological viewpoint or belief or set of such viewpoints or beliefs; or

"(bb) a a specific viewpoint or belief or set of viewpoints or beliefs on social, cultural, or political issues; or

"(II) support or commit to supporting the disparate treatment of any individual or group of individuals on the basis of any protected class under Federal civil rights law, except as required by Federal law or a court order; or

"(ii) assess an institution's or program of study's commitment to any ideology, belief, or viewpoint;

"(B) prohibit an institution—

"(i) from having a religious mission, operating as a religious institution, or being controlled by a religious organization (in a manner described in paragraph (1), (2), (3), (4), (5), or (6) of section 106.12(c) of title 34, Code of Federal Regulations (as in effect on the date of the enactment of this paragraph)), or from requiring an applicant, student, employee, or independent contractor (such as an adjunct professor) of such an institution to—

"(I) provide or adhere to a statement of faith; or

"(II) adhere to a code of conduct consistent with the stated religious mission of such institution or the religious tenets of such organization; or

"(ii) from requiring an applicant, student, employee, or contractor to take an oath to uphold the Constitution of the United States; or

"(C) require, encourage, or coerce an institution of higher education to violate any right protected by the Constitution."

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(b) LIMITATION ON SCOPE OF CRITERIA.—Section 496(g) of the Higher Education Act of 1965 (20 U.S.C. 1099b(g)) is amended to read as follows:

"(g) LIMITATION ON SCOPE OF CRITERIA.—

"(1) IN GENERAL.—The Secretary shall not establish criteria for accrediting agencies or associations that are not required by this section.

"(2) INSTITUTIONAL ELIGIBILITY.—An institution of higher education shall be eligible for participation in programs under this title if the institution is in compliance with the standards of its accrediting agency or association that assess the institution in accordance with subsection (a)(5), regardless of any additional standards adopted by the agency or association for purposes unrelated to participation in programs under this title."

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SEC. 103. RULE OF CONSTRUCTION.

Nothing in this title prevents religious accreditors from holding and enforcing religious standards on institutions they choose to accredit.

TITLE II—RESPECTING THE FIRST AMENDMENT ON CAMPUS

SEC. 201. SHORT TITLE.

This title may be cited as the "Respecting the First Amendment on Campus Act".

SEC. 202. SENSE OF CONGRESS.

The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended by inserting after section 112 the following new section:

"SEC. 112A. SENSE OF CONGRESS; CONSTRUCTION; DEFINITION.

"(a) SENSE OF CONGRESS.—

"(1) ADOPTION OF CHICAGO PRINCIPLES.—The Congress—

"(A) recognizes that free expression, open inquiry, and the honest exchange of ideas are fundamental to higher education;

"(B) acknowledges the profound contribution of the Chicago Principles to the freedom of speech and expression; and

"(C) calls on nonsectarian institutions of higher education to adopt the Chicago Principles or substantially similar principles with respect to institutional mission that emphasizes a commitment to freedom of speech and expression on university campuses and to develop and consistently implement policies accordingly.

"(2) POLITICAL LITMUS TESTS.—The Congress—

"(A) condemns public institutions of higher education for conditioning admission to any student applicant, or the hiring, reappointment, or promotion of any faculty member, on the applicant or faculty member pledging allegiance to or making a statement of personal support for or opposition to any political ideology or movement, including a pledge or statement regarding diversity, equity, and inclusion, or related topics; and

"(B) discourages any institution from requesting or requiring any such pledge or statement from an applicant or faculty member, as such actions are antithetical to the freedom of speech protected by the First Amendment to the Constitution.

"(b) CONSTRUCTION.—Nothing in sections 112B through 112E shall be construed to infringe upon, or otherwise impact, the protections provided to individuals under titles VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

"(c) DEFINITION.—For purposes of sections 112C, 112D, and 112E, the term 'covered public institution' means an institution of higher education that is—

"(1) a public institution; and

"(2) participating in a program authorized under title IV."

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SEC. 203. DISCLOSURE OF FREE SPEECH POLICIES.

The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), as amended by section 202 of this title, is further amended by inserting after section 112A the following new section:

"SEC. 112B. DISCLOSURE OF POLICIES RELATED TO FREEDOM OF SPEECH, ASSOCIATION, AND RELIGION.

"(a) IN GENERAL.—No institution of higher education shall be eligible to participate in any program under title IV unless the institution certifies to the Secretary that the institution has annually disclosed to current and prospective students and faculty—

"(1) any policies held by the institutions related to—

"(A) speech on campus, including policies limiting—

"(i) the time when such speech may occur;

"(ii) the place where such speech may occur; or

"(iii) the manner in which such speech may occur;

"(B) freedom of association, if applicable; and

"(C) freedom of religion, if applicable; and

"(2) the right to a cause of action under section 112E, if the institution is a public institution.

"(b) INTENDED BENEFICIARIES.—The certification specified in subsection (a) shall include an acknowledgment from the institution that the students and faculty are the intended beneficiaries of the policies disclosed in the certification."

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SEC. 204. FREEDOM OF ASSOCIATION AND RELIGION.

The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), as amended by section 203 of this title, is further amended by inserting after section 112B the following new section:

"SEC. 112C. FREEDOM OF ASSOCIATION AND RELIGION.

"(a) STUDENTS' BILL OF RIGHTS TO FURTHER PROTECT SPEECH AND ASSOCIATION.—

"(1) PROTECTED RIGHTS.—A covered public institution shall comply with the following requirements:

"(A) RECOGNIZED STUDENT ORGANIZATIONS.—A covered public institution that has recognized student organizations shall comply with the following requirements:

"(i) FACULTY ADVISORS.—

"(I) IN GENERAL.—A covered public institution may not deny recognition to a student organization because the organization is unable to obtain a faculty advisor or sponsor, if the organization meets each of the other content- and viewpoint-neutral institutional requirements for such recognition.

"(II) ALTERNATIVE.—An institution described in subclause (I) shall ensure that any policy or practice related to the recognition of a student organization—

"(aa) in the case of an organization that meets each of the other content- and viewpoint-neutral institutional requirements for such recognition but is unable to obtain a faculty advisor or sponsor, provides for an alternative to any requirement that a faculty or staff member serve as the faculty advisor or sponsor as a condition for recognition of the student organization, which alternative may include—

"(AA) waiver of such requirement; or

"(BB) the institution assigning a faculty or staff member to such organization; and

"(bb) does not require a faculty or staff member of the institution assigned to serve as faculty advisor pursuant to item (aa)(BB) to participate in, or support, the organization other than by performing the purely administrative functions required of a faculty advisor.

"(ii) APPEAL OPTIONS FOR RECOGNITION.—

"(I) IN GENERAL.—A covered public institution shall provide an appeals process by which a student organization that has been denied recognition by the institution may appeal to an institutional appellate entity for reconsideration.

"(II) REQUIREMENTS.—The appeal process shall—

"(aa) require the covered public institution to provide a written explanation for the basis for the denial of recognition in a timely manner, which shall include a copy of all policies relied upon by the institution as a basis for the denial;

"(bb) require the covered public institution to provide written notice to the students seeking recognition of the appeal process and the timeline for hearing and resolving the appeal;

"(cc) allow the students seeking recognition to obtain outside counsel to represent them during the appeal; and

"(dd) ensure that such appellate entity did not participate in any prior proceeding related to the denial of recognition to the student organization.

"(B) DISTRIBUTION OF FUNDS TO STUDENT ORGANIZATIONS.—A covered public institution that collects a mandatory fee from students for the costs of student activities or events (or both), and provides funds generated from such student fees to one or more recognized student organizations of the institution, shall—

"(i) establish and make publicly available clear, objective, content- and viewpoint-neutral, and exhaustive standards to be used by the institution to determine—

"(I) the total amount of funds made available for allocations to the recognized student organizations; and

"(II) the allocations of such total amount to individual recognized student organizations;

"(ii) ensure that allocations are made to the recognized student organizations in accordance with the standards established pursuant to clause (i);

"(iii) upon the request of a recognized student organization that has been denied all or a portion of an allocation described in clause (ii), provide to the organization, in writing (which may include electronic communication) and in a timely manner, the specific reasons for such denial, copies of all policies relied upon by the institution as basis for the denial, and information of the appeals process described in clause (iv); and

"(iv) provide an appeals process by which a recognized student organization that has been denied all or a portion of an allocation described in clause (ii) may appeal to an institutional appellate entity for reconsideration, which appeals process—

"(I) shall require the covered public institution to provide written notice to the students seeking an allocation through the appeal process and the timeline for hearing and resolving the appeal;

"(II) allow the students seeking an allocation to obtain outside counsel to represent them during the appeal; and

"(III) require the institution to ensure that such appellate entity did not participate in any prior proceeding related to such allocation.

"(C) ASSESSMENT OF SECURITY FEES FOR EVENTS.—A covered public institution shall establish and make publicly available clear, objective, content- and viewpoint-neutral, and exhaustive standards to be used by the institution to—

"(i) determine the amount of any security fee for an event or activity organized by a student or student organization; and

"(ii) ensure that a determination of such an amount may not be based, in whole or in part, on—

"(I) the content of expression or viewpoint of the student or student organization;

"(II) the content of expression of the event or activity organized by the student or student organization;

"(III) the content of expression or viewpoint of an invited guest of the student or student organization; or

"(IV) an anticipated reaction by students or the public to the event.

"(D) PROTECTIONS FOR INVITED GUESTS AND SPEAKERS.—A covered public institution shall establish and make publicly available clear, objective, content- and viewpoint-neutral, and exhaustive standards to be used by the institution related to the safety and protection of speakers and guests who are invited to the institution by a student or student organization.

"(2) DEFINITIONS.—In this subsection:

"(A) RECOGNIZED STUDENT ORGANIZATION.—The term 'recognized student organization' means a student organization that has been determined by a covered public institution to meet institutional requirements to qualify for certain privileges granted by the institution, such as use of institutional venues, resources, and funding.

"(B) SECURITY FEE.—The term 'security fee' means a fee charged to a student or student organization for an event or activity organized by the student or student organization on the campus of the institution that is intended to cover some or all of the costs incurred by the institution for additional security measures needed to ensure the security of the institution, students, faculty, staff, or surrounding community as a result of such event or activity.

"(b) EQUAL CAMPUS ACCESS.—A covered public institution shall not deny to a religious student organization any right, benefit, or privilege that is otherwise afforded to other student organizations at the institution (including full access to the facilities of the institution and official recognition of the organization by the institution) because of the religious beliefs, practices, speech, leadership standards, or standards of conduct of the religious student organization.

"(c) FREEDOM OF ASSOCIATION.—

"(1) UPHOLDING FREEDOM OF ASSOCIATION PROTECTIONS.—Any student (or group of students) enrolled in an institution of higher education that receives funds under this Act, including through an institution's participation in any program under title IV, shall—

"(A) subject to paragraph (3)(A), be able to form a single-sex social organization, whether recognized by the institution or not; and

"(B) be able to apply to join any single-sex social organization; and

"(C) if selected for membership by any single-sex social organization, be able to join, and participate in, such single-sex organization, subject to its standards for regulating its own membership, as provided under paragraph (3)(C).

"(2) NONRETALIATION AGAINST STUDENTS OF SINGLE-SEX SOCIAL ORGANIZATIONS.—An institution of higher education that receives funds under this Act, including through an institution's participation in any program under title IV, shall not—

"(A) take any action to require or coerce a student or prospective student who is a member or prospective member of a single-sex social organization to waive the protections provided under paragraph (1), including as a condition of enrolling in the institution;

"(B) take any adverse action against a single-sex social organization, or a student who is a member or a prospective member of a single-sex social organization, based on the membership practice of such organization limiting membership only to individuals of one sex; or

"(C) impose a recruitment restriction (including a recruitment restriction relating to the schedule for membership recruitment) on a single-sex social organization recognized by the institution, which is not imposed upon other student organizations by the institution, unless the organization (or a council of similar organizations) and the institution have entered into a mutually agreed upon written agreement that allows the institution to impose such restriction.

"(3) RULES OF CONSTRUCTION.—Nothing in this subsection shall—

"(A) require an institution of higher education to officially recognize a single-sex social organization;

"(B) prohibit an institution of higher education from taking an adverse action against a student who organizes, leads, or joins a single-sex social organization—

"(i) due to academic or nonacademic misconduct; or

"(ii)(I) for public institutions, because the organization's purpose is directed to inciting or producing imminent lawless action and likely to incite or produce such action; or

"(II) for private institutions, because the organization's purpose is incompatible with the religious mission of the institution, so long as that adverse action is not based on the membership practice of the organization of limiting membership only to individuals of one sex;

"(C) prevent a single-sex social organization from regulating its own membership;

"(D) inhibit the ability of the faculty of an institution of higher education to express an opinion (either individually or collectively) about membership in a single-sex social organization, or otherwise inhibit the academic freedom of such faculty to research, write, or publish material about membership in such an organization; or

"(E) create enforceable rights against a single-sex social organization or against an institution of higher education due to the decision of the organization to deny membership to an individual student.

"(4) DEFINITIONS.—In this subsection:

"(A) ADVERSE ACTION.—The term 'adverse action' includes the following actions taken by an institution of higher education with respect to a single-sex social organization or a member or prospective member of a single-sex social organization:

"(i) Expulsion, suspension, probation, censure, condemnation, formal reprimand, or any other disciplinary action, coercive action, or sanction taken by an institution of higher education or administrative unit of such institution.

"(ii) An oral or written warning with respect to an action described in clause (i) made by an official of an institution of higher education acting in their official capacity.

"(iii) An action to deny participation in any education program or activity, including the withholding of any rights, privileges, or opportunities afforded other students on campus.

"(iv) An action to withhold, in whole or in part, any financial assistance (including scholarships and on-campus employment), or denying the opportunity to apply for financial assistance, a scholarship, a graduate fellowship, or on-campus employment.

"(v) An action to deny or restrict access to on-campus housing.

"(vi) An act to deny any certification, endorsement, or letter of recommendation that may be required by a student's current or future employer, a government agency, a licensing board, an institution of higher education, a scholarship program, or a graduate fellowship to which the student applies or seeks to apply.

"(vii) An action to deny participation in any sports team, club, or other student organization, including a denial of any leadership position in any sports team, club, or other student organization.

"(viii) An action to withdraw the institution's official recognition of such organization.

"(ix) An action to require any student to certify that such student is not a member of a single-sex social organization or to disclose the student's membership in a single-sex social organization.

"(x) An action to interject an institution's own criteria into the membership practices of the organization in any manner that conflicts with the rights of such organization under title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) or this subsection.

"(xi) An action to impose additional requirements on advisors serving a single-sex social organization that are not imposed on all other student organizations.

"(B) SINGLE-SEX SOCIAL ORGANIZATION.—The term 'single-sex social organization' means—

"(i) a social fraternity or sorority described in section 501(c) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of such Code, or an organization that has been historically single-sex, the active membership of which consists primarily of students or alumni of an institution of higher education; or

"(ii) a single-sex private social club (including an independent organization located off-campus) that consists primarily of students or alumni of an institution of higher education.

"(d) CONSTRUCTION.—Nothing in this section shall be construed to prohibit an institution of higher education from taking any adverse action (such as denying or revoking recognition, funding, use of institutional venues or resources, or other privileges granted by the institution) against a student organization based on the student organization having knowingly provided material support or resources to an organization designated as a foreign terrorist organization pursuant to section 219 of the Immigration and Nationality Act (8 U.S.C. 1189)."

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SEC. 205. FREE SPEECH ON CAMPUS.

The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), as amended by section 204 of this title, is further amended by inserting after section 112C the following new section:

"SEC. 112D. FREE SPEECH ON CAMPUS.

"(a) IN GENERAL.—A covered public institution shall—

"(1) at each orientation for new and transfer students, provide students attending the orientation—

"(A) a written statement that—

"(i) explains the rights of students under the First Amendment to the Constitution;

"(ii) affirms the importance of, and the commitment of the institution to, freedom of expression;

"(iii) explains students' protections under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the procedures for filing a discrimination claim with the Office for Civil Rights of the Department of Education; and

"(iv) includes assurances that students, and individuals invited by students to speak at the institution, will not be treated in a manner that violates the freedom of expression of such students or individuals; and

"(B) educational programming (including online resources) that describes their free speech rights and responsibilities under the First Amendment to the Constitution; and

"(2) post on the publicly accessible website of the institution the statement described in paragraph (1)(A).

"(b) CAMPUS FREE SPEECH AND RESTORATION.—

"(1) DEFINITION OF EXPRESSIVE ACTIVITIES.—In this subsection, the term 'expressive activity'—

"(A) includes—

"(i) peacefully assembling, protesting, speaking, or listening;

"(ii) distributing literature;

"(iii) carrying a sign;

"(iv) circulating a petition; or

"(v) other expressive activities guaranteed under the First Amendment to the Constitution;

"(B) applies equally to religious expression as it does to nonreligious expression; and

"(C) does not include unprotected speech (as defined by the precedents of the Supreme Court of the United States).

"(2) EXPRESSIVE ACTIVITIES AT AN INSTITUTION.—

"(A) IN GENERAL.—A covered public institution may not prohibit, subject to subparagraph (B), a person from freely engaging in noncommercial expressive activity in a generally accessible area on the institution's campus if the person's conduct is lawful. The publicly accessible outdoor areas of campuses of public institutions of higher education shall be regulated pursuant to rules applicable to traditional public forums.

"(B) RESTRICTIONS.—A covered public institution may not maintain or enforce time, place, or manner restrictions on an expressive activity in a generally accessible area of the institution's campus unless the restriction—

"(i) is narrowly tailored in furtherance of a significant governmental interest;

"(ii) is based on published, content-neutral, and viewpoint-neutral criteria;

"(iii) leaves open ample alternative channels for communication; and

"(iv) provides for spontaneous assembly and distribution of literature.

"(C) APPLICATION.—The protections provided under subparagraph (A) do not apply to expressive activity in an area on an institution's campus that is not a generally accessible area.

"(D) NONAPPLICATION TO SERVICE ACADEMIES.—This subsection shall not apply to an institution of higher education whose primary purpose is the education of individuals for the military services of the United States, or the merchant marine.

"(c) PROHIBITION ON USE OF POLITICAL TESTS.—

"(1) IN GENERAL.—A covered public institution may not consider, require, or discriminate on the basis of a political test in the admission, appointment, hiring, employment, or promotion of any covered individual, or in the granting of tenure to any covered individual.

"(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed—

"(A) to prohibit an institution of higher education whose primary purpose is the education of individuals for the military services of the United States, or the merchant marine, from requiring an applicant, student, or employee to take an oath to uphold the Constitution of the United States;

"(B) to prohibit an institution of higher education from requiring a student, faculty member, or employee to comply with Federal or State antidiscrimination laws or from taking action against a student, faculty member, or employee for violations of Federal or State anti-discrimination laws, as applicable;

"(C) to prohibit an institution of higher education from evaluating a prospective student, an employee, or a prospective employee based on their knowingly providing material support or resources to an organization designated as a foreign terrorist organization pursuant to section 219 of the Immigration and Nationality Act (8 U.S.C. 1189);

"(D) to prohibit an institution of higher education from considering the subject-matter competency including the research and creative works, of any candidate for a faculty position or faculty member considered for promotion when the subject matter is germane to their given field of scholarship; or

"(E) to apply to activities of registered student organizations.

"(3) DEFINITIONS.—In this subsection:

"(A) COVERED INDIVIDUAL.—The term 'covered individual' means, with respect to an institution of higher education that is a public institution—

"(i) a prospective student who has submitted an application to attend such institution;

"(ii) a student who attends such institution;

"(iii) a prospective employee who has submitted an application to work at such institution;

"(iv) an employee who works at such institution;

"(v) a prospective faculty member who has submitted an application to work at such institution; and

"(vi) a faculty member who works at such institution.

"(B) MATERIAL SUPPORT OR RESOURCES.—The term 'material support or resources' has the meaning given that term in section 2339A of title 18, United States Code (including the definitions of 'training' and 'expert advice or assistance' in that section).

"(C) POLITICAL TEST.—The term 'political test' means a method of compelling or soliciting an applicant for enrollment or employment, student, or employee of an institution of higher education to identify commitment to or make a statement of personal belief in support of any ideology or movement that—

"(i) supports or opposes a specific partisan or political set of beliefs;

"(ii) supports or opposes a particular viewpoint on a social or political issue; or

"(iii) promotes the disparate treatment of any individual or group of individuals on the basis of race, color, or national origin, including—

"(I) any initiative or formulation of diversity, equity, and inclusion beyond upholding existing Federal law; or

"(II) any theory or practice that holds that systems or institutions upholding existing Federal law are racist, oppressive, or otherwise unjust."

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SEC. 206. ENFORCEMENT.

(a) PROGRAM PARTICIPATION AGREEMENT.—Section 487(a) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)) is amended by adding at the end the following:

"(30)(A) ~~In the case of an institution that is a public institution, the~~*The* institution will comply with all the requirements of sections ~~112B through 112D.~~

~~"(B) In the case of an institution that is not a public institution, the institution will comply with sections 112B and 112C(c).~~

~~"(C~~

112B.

"(B) An institution that fails to comply with section 112B ~~or 112C(c)~~ shall—

"(i) be ineligible to participate in the programs authorized by this title for a period of not less than 1 award year; and

"(ii) in order to regain eligibility to participate in such programs, demonstrate compliance with all requirements of such section for not less than one award year after the award year in which such institution became ineligible. "

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(b) CAUSE OF ACTION.—The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), as amended by section 205 of this title, is further amended by inserting after section 112D the following new section:

"SEC. 112E. ENFORCEMENT.

"(a) CAUSE OF ACTION.—

"(1) CIVIL ACTION.—After exhaustion of any available appeals under section 112C(a), an aggrieved individual who, or an aggrieved organization that, is harmed by the maintenance of a policy or practice by a covered public institution that is in violation of a requirement described in section 112B, 112C, or 112D may bring a civil action in a Federal court for appropriate relief.

"(2) APPROPRIATE RELIEF.—For the purposes of this subsection, appropriate relief includes—

"(A) a temporary or permanent injunction; and

"(B) awarding a prevailing plaintiff—

"(i) compensatory damages;

"(ii) reasonable court costs; and

"(iii) reasonable attorney's fees.

"(3) STATUTE OF LIMITATIONS.—A civil action under this subsection may not be commenced later than 2 years after the cause of action accrues. For purposes of calculating the two-year limitation period, each day that the violation of a requirement described in section 112B, 112C, or 112D persists, and each day that a policy in violation of a requirement described in section 112B, 112C, or 112D remains in effect, shall constitute a new day that the cause of action has accrued.

"(b) NONDEFAULT, FINAL JUDGMENT.—In the case of a court's nondefault, final judgment in a civil action brought under subsection (a) that a covered public institution is in violation of a requirement described in section 112B, 112C, or 112D, such covered public institution shall—

"(1) not later than 7 days after the date on which the court makes such a nondefault, final judgment, notify the Secretary of such judgment and submit to the Secretary a copy of the nondefault, final judgment; and

"(2) not later than 30 days after the date on which the court makes such a nondefault, final judgment, submit to the Secretary a report that—

"(A) certifies that the standard, policy, practice, or procedure that is in violation of the requirement described in section 112B, 112C, or 112D is no longer in use; and

"(B) provides evidence to support such certification.

"(c) REVOCATION OF ELIGIBILITY.—In the case of a covered public institution that does not notify the Secretary as required under subsection (b)(1) or submit the report required under subsection (b)(2), the Secretary shall revoke the eligibility of such institution to participate in a program authorized under title IV for each award year following the conclusion of the award year in which a court made a nondefault, final judgment in a civil action brought under subsection (a) that the institution is in violation of a requirement described in section 112B, 112C, or 112D.

"(d) RESTORATION OF ELIGIBILITY.—

"(1) IN GENERAL.—A covered public institution that loses eligibility under subsection (c) to participate in a program authorized under title IV may seek to restore such eligibility by submitting to the Secretary the report described in subsection (b)(2).

"(2) DETERMINATION BY THE SECRETARY.—Not later than 90 days after a covered public institution submits a report under paragraph (1), the Secretary shall review such report and make a determination with respect to whether such report contained sufficient evidence to demonstrate that such institution is no longer in violation of a requirement described in section 112B, 112C, or 112D.

"(3) RESTORATION.—If the Secretary makes a determination under paragraph (2) that the covered public institution is no longer in violation of a requirement described in section 112B, 112C, or 112D, the Secretary shall restore the eligibility of such institution to participate in a program authorized under title IV for each award year following the conclusion of the award year in which such determination is made.

"(e) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this section, and on an annual basis thereafter, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Senate Committee on Health, Education, Labor, and Pensions a report that includes—

"(1) a compilation of—

"(A) the notifications of violation received by the Secretary under subsection (b)(1) in the year for which such report is being submitted; and

"(B) the reports submitted to the Secretary under subsection (b)(2) for such year; and

"(2) any action taken by the Secretary to revoke or restore eligibility under subsections (c) and (d) for such year.

"(f) VOLUNTARY WAIVER OF STATE AND LOCAL SOVEREIGN IMMUNITY AS CONDITION OF RECEIVING FEDERAL FUNDING.—The receipt, on or after the date of enactment of this section, of any Federal funding under title IV of

this Act by a State or political subdivision of a State (including any municipal or county government) is deemed to constitute a clear and unequivocal expression of, and agreement to, waiving sovereign immunity under the 11th Amendment to the Constitution or otherwise, to a civil action for injunctive relief, compensatory damages, court costs, and attorney's fees under this section.

"(g) DEFINITION.—In this section, the term 'nondefault, final judgment' means a final judgment by a court for a civil action brought under subsection (a) that a covered public institution is in violation of a requirement described in section 112B, 112C, or 112D that the covered public institution chooses not to appeal or that is not subject to further appeal."

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About this report

Version of the system: Bill to Bill Report Generator 2.0.3.

CSS version: 2.0.2