

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE
OFFERED BY MR. WALBERG OF MICHIGAN**

After section 1020, insert the following:

1 **SEC. 1020A. ENSURING EQUAL TREATMENT BY GOVERN-**
2 **MENTAL ENTITIES.**

3 Part B of title I of the Higher Education Act of 1965
4 (20 U.S.C. 1011 et seq.), as amended by this part, is fur-
5 ther amended by adding at the end the following

6 **“SEC. 130A. ENSURING EQUAL TREATMENT BY GOVERN-**
7 **MENTAL ENTITIES.**

8 “(a) IN GENERAL.—Notwithstanding any other pro-
9 vision of law, no government entity shall take any adverse
10 action against an institution of higher education that re-
11 ceives funding under title IV, if such adverse action—

12 “(1)(A) is being taken by a government entity
13 that—

14 “(i) is a department, agency, or in-
15 strumentality of the Federal Government;

16 or

17 “(ii) receives Federal funds; or

1 “(B) would affect commerce with foreign
2 nations, among the several States, or with In-
3 dian Tribes; and

4 “(2) has the effect of prohibiting or penalizing
5 the institution for acts or omissions by the institu-
6 tion that are in furtherance of its religious mission
7 or are related to the religious affiliation of the insti-
8 tution.

9 “(b) ASSERTION BY INSTITUTION.—An actual or
10 threatened violation of subsection (a) may be asserted by
11 an institution of higher education that receives funding
12 under title IV as a claim or defense in a proceeding before
13 any court. The court shall grant any appropriate equitable
14 relief, including injunctive or declaratory relief.

15 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
16 tion shall be construed to alter or amend—

17 “(1) title VI of the Civil Rights Act of 1964 (42
18 U.S.C. 2000d et seq.);

19 “(2) section 182 of the Elementary and Sec-
20 ondary Education Amendments Act of 1966 (42
21 U.S.C. 2000d–5); or

22 “(3) section 2 of the Elementary and Secondary
23 Education Amendments Act of 1969 (42 U.S.C.
24 2000d–6)

25 “(d) DEFINITIONS.—In this section:

1 “(1) ADVERSE ACTION.—The term ‘adverse ac-
2 tion’ includes, with respect to an institution of high-
3 er education or the past, current, or prospective stu-
4 dents of such institution—

5 “(A) the denial or threat of denial of fund-
6 ing, including grants, scholarships, or loans;

7 “(B) the denial or threat of denial of ac-
8 cess to facilities or programs;

9 “(C) the withholding or threat of with-
10 holding of any licenses, permits, certifications,
11 accreditations, contracts, cooperative agree-
12 ments, grants, guarantees, tax-exempt status,
13 or exemptions; or

14 “(D) any other penalty or denial, or threat
15 of such other penalty or denial, of an otherwise
16 available benefit.

17 “(2) GOVERNMENT ENTITY.—The term ‘gov-
18 ernment entity’ means—

19 “(A) any department, agency, or instru-
20 mentality of the Federal Government;

21 “(B) a State or political subdivision of a
22 State, or any agency or instrumentality thereof;
23 and

24 “(C) any interstate or other inter-govern-
25 mental entity.

1 “(3) INSTITUTION OF HIGHER EDUCATION.—

2 The term ‘institution of higher education’ has the
3 meaning given that term in section 102.

4 “(4) RELIGIOUS MISSION.—The term ‘religious
5 mission’ includes an institution of higher education’s
6 religious tenets, beliefs, or teachings, and any poli-
7 cies or decisions related to such tenets, beliefs, or
8 teachings (including any policies or decisions con-
9 cerning housing, employment, curriculum, self-gov-
10 ernance, or student admission, continuing enroll-
11 ment, or graduation).”.

