

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 7683
OFFERED BY MR. WILLIAMS OF NEW YORK**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Respecting the First
3 Amendment on Campus Act”.

4 SEC. 2. SENSE OF CONGRESS.

5 The Higher Education Act of 1965 (20 U.S.C. 1001
6 et seq.) is amended by inserting after section 112 the fol-
7 lowing new section:

**8 “SEC. 112A. SENSE OF CONGRESS; CONSTRUCTION; DEFINI-
9 TION.**

10 “(a) SENSE OF CONGRESS.—

11 “(1) ADOPTION OF CHICAGO PRINCIPLES.—The
12 Congress—

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

16 “(B) acknowledges the profound contribu-
17 tion of the Chicago Principles to the freedom of
18 speech and expression; and

1 “(C) calls on nonsectarian institutions of
2 higher education to adopt the Chicago Prin-
3 ciples or substantially similar principles with re-
4 spect to institutional mission that emphasizes a
5 commitment to freedom of speech and expres-
6 sion on university campuses and to develop and
7 consistently implement policies accordingly.

8 “(2) POLITICAL LITMUS TESTS.—The Con-
9 gress—

10 “(A) condemns public institutions of high-
11 er education for conditioning admission to any
12 student applicant, or the hiring, reappointment,
13 or promotion of any faculty member, on the ap-
14 plicant or faculty member pledging allegiance to
15 or making a statement of personal support for
16 or opposition to any political ideology or move-
17 ment, including a pledge or statement regarding
18 diversity, equity, and inclusion, or related top-
19 ics; and

20 “(B) discourages any institution from re-
21 questing or requiring any such pledge or state-
22 ment from an applicant or faculty member, as
23 such actions are antithetical to the freedom of
24 speech protected by the First Amendment to
25 the Constitution.

1 “(b) CONSTRUCTION.—Nothing in sections 112B
2 through 112E shall be construed to infringe upon, or oth-
3 erwise impact, the protections provided to individuals
4 under titles VI and VII of the Civil Rights Act of 1964
5 (42 U.S.C. 2000d et seq.).

6 “(c) DEFINITION.—For purposes of sections 112C,
7 112D, and 112E, the term ‘covered public institution’
8 means an institution of higher education that is—

9 “(1) a public institution; and

10 “(2) participating in a program authorized
11 under title IV.”.

12 **SEC. 3. DISCLOSURE OF FREE SPEECH POLICIES.**

13 The Higher Education Act of 1965 (20 U.S.C. 1001
14 et seq.), as amended by section 2 of this Act, is further
15 amended by inserting after section 112A the following new
16 section:

17 **“SEC. 112B. DISCLOSURE OF POLICIES RELATED TO FREE-**
18 **DOM OF SPEECH, ASSOCIATION, AND RELI-**
19 **GION.**

20 “(a) IN GENERAL.—No institution of higher edu-
21 cation shall be eligible to participate in any program under
22 title IV unless the institution certifies to the Secretary
23 that the institution has annually disclosed to current and
24 prospective students and faculty—

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

3 “(A) speech on campus, including policies
4 limiting—

5 “(i) the time when such speech may
6 occur;

7 “(ii) the place where such speech may
8 occur; or

9 “(iii) the manner in which such
10 speech may occur;

11 “(B) freedom of association, if applicable;
12 and

13 “(C) freedom of religion, if applicable; and

14 “(2) the right to a cause of action under section
15 112E, if the institution is a public institution.

16 “(b) INTENDED BENEFICIARIES.—The certification
17 specified in subsection (a) shall include an acknowledg-
18 ment from the institution that the students and faculty
19 are the intended beneficiaries of the policies disclosed in
20 the certification.”.

21 **SEC. 4. FREEDOM OF ASSOCIATION AND RELIGION.**

22 The Higher Education Act of 1965 (20 U.S.C. 1001
23 et seq.), as amended by section 3 of this Act, is further
24 amended by inserting after section 112B the following new
25 section:

1 **“SEC. 112C. FREEDOM OF ASSOCIATION AND RELIGION.**

2 “(a) STUDENTS’ BILL OF RIGHTS TO FURTHER PRO-
3 TECT SPEECH AND ASSOCIATION.—

4 “(1) PROTECTED RIGHTS.—A covered public in-
5 stitution shall comply with the following require-
6 ments:

7 “(A) RECOGNIZED STUDENT ORGANIZA-
8 TIONS.—A covered public institution that has
9 recognized student organizations shall comply
10 with the following requirements:

11 “(i) FACULTY ADVISORS.—

12 “(I) IN GENERAL.—A covered
13 public institution may not deny rec-
14 ognition to a student organization be-
15 cause the organization is unable to ob-
16 tain a faculty advisor or sponsor, if
17 the organization meets each of the
18 other content- and viewpoint-neutral
19 institutional requirements for such
20 recognition.

21 “(II) ALTERNATIVE.—An institu-
22 tion described in subclause (I) shall
23 ensure that any policy or practice re-
24 lated to the recognition of a student
25 organization—

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“(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

1 than by performing the purely
2 administrative functions required
3 of a faculty advisor.

4 “(ii) APPEAL OPTIONS FOR RECOGNI-
5 TION.—

6 “(I) IN GENERAL.—A covered
7 public institution shall provide an ap-
8 peals process by which a student orga-
9 nization that has been denied recog-
10 nition by the institution may appeal to
11 an institutional appellate entity for re-
12 consideration.

13 “(II) REQUIREMENTS.—The ap-
14 peal process shall—

15 “(aa) require the covered
16 public institution to provide a
17 written explanation for the basis
18 for the denial of recognition in a
19 timely manner, which shall in-
20 clude a copy of all policies relied
21 upon by the institution as a basis
22 for the denial;

23 “(bb) require the covered
24 public institution to provide writ-
25 ten notice to the students seeking

1 recognition of the appeal process
2 and the timeline for hearing and
3 resolving the appeal;

4 “(cc) allow the students
5 seeking recognition to obtain out-
6 side counsel to represent them
7 during the appeal; and

8 “(dd) ensure that such ap-
9 pellate entity did not participate
10 in any prior proceeding related to
11 the denial of recognition to the
12 student organization.

13 “(B) DISTRIBUTION OF FUNDS TO STU-
14 DENT ORGANIZATIONS.—A covered public insti-
15 tution that collects a mandatory fee from stu-
16 dents for the costs of student activities or
17 events (or both), and provides funds generated
18 from such student fees to one or more recog-
19 nized student organizations of the institution,
20 shall—

21 “(i) establish and make publicly avail-
22 able clear, objective, content- and view-
23 point-neutral, and exhaustive standards to
24 be used by the institution to determine—

1 “(I) the total amount of funds
2 made available for allocations to the
3 recognized student organizations; and

4 “(II) the allocations of such total
5 amount to individual recognized stu-
6 dent organizations;

7 “(ii) ensure that allocations are made
8 to the recognized student organizations in
9 accordance with the standards established
10 pursuant to clause (i);

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

22 “(iv) provide an appeals process by
23 which a recognized student organization
24 that has been denied all or a portion of an
25 allocation described in clause (ii) may ap-

1 peal to an institutional appellate entity for
2 reconsideration, which appeals process—

3 “(I) shall require the covered
4 public institution to provide written
5 notice to the students seeking an allo-
6 cation through the appeal process and
7 the timeline for hearing and resolving
8 the appeal;

9 “(II) allow the students seeking
10 an allocation to obtain outside counsel
11 to represent them during the appeal;
12 and

13 “(III) require the institution to
14 ensure that such appellate entity did
15 not participate in any prior pro-
16 ceeding related to such allocation.

17 “(C) ASSESSMENT OF SECURITY FEES FOR
18 EVENTS.—A covered public institution shall es-
19 tablish and make publicly available clear, objec-
20 tive, content- and viewpoint-neutral, and ex-
21 haustive standards to be used by the institution
22 to—

23 “(i) determine the amount of any se-
24 curity fee for an event or activity organized
25 by a student or student organization; and

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

4 “(I) the content of expression or
5 viewpoint of the student or student
6 organization;

7 “(II) the content of expression of
8 the event or activity organized by the
9 student or student organization;

10 “(III) the content of expression
11 or viewpoint of an invited guest of the
12 student or student organization; or

13 “(IV) an anticipated reaction by
14 students or the public to the event.

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

23 “(2) DEFINITIONS.—In this subsection:

24 “(A) RECOGNIZED STUDENT ORGANIZA-
25 TION.—The term ‘recognized student organiza-

1 tion’ means a student organization that has
2 been determined by a covered public institution
3 to meet institutional requirements to qualify for
4 certain privileges granted by the institution,
5 such as use of institutional venues, resources,
6 and funding.

7 “(B) SECURITY FEE.—The term ‘security
8 fee’ means a fee charged to a student or stu-
9 dent organization for an event or activity orga-
10 nized by the student or student organization on
11 the campus of the institution that is intended to
12 cover some or all of the costs incurred by the
13 institution for additional security measures
14 needed to ensure the security of the institution,
15 students, faculty, staff, or surrounding commu-
16 nity as a result of such event or activity.

17 “(b) EQUAL CAMPUS ACCESS.—A covered public in-
18 stitution shall not deny to a religious student organization
19 any right, benefit, or privilege that is otherwise afforded
20 to other student organizations at the institution (including
21 full access to the facilities of the institution and official
22 recognition of the organization by the institution) because
23 of the religious beliefs, practices, speech, leadership stand-
24 ards, or standards of conduct of the religious student or-
25 ganization.

1 “(c) FREEDOM OF ASSOCIATION.—

2 “(1) UPHOLDING FREEDOM OF ASSOCIATION
3 PROTECTIONS.—Any student (or group of students)
4 enrolled in an institution of higher education that
5 receives funds under this Act, including through an
6 institution’s participation in any program under title
7 IV, shall—

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

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

13 “(C) if selected for membership by any sin-
14 gle-sex social organization, be able to join, and
15 participate in, such single-sex organization, sub-
16 ject to its standards for regulating its own
17 membership, as provided under paragraph
18 (3)(C).

19 “(2) NONRETALIATION AGAINST STUDENTS OF
20 SINGLE-SEX SOCIAL ORGANIZATIONS.—An institu-
21 tion of higher education that receives funds under
22 this Act, including through an institution’s partici-
23 pation in any program under title IV, shall not—

24 “(A) take any action to require or coerce
25 a student or prospective student who is a mem-

1 ber or prospective member of a single-sex social
2 organization to waive the protections provided
3 under paragraph (1), including as a condition
4 of enrolling in the institution;

5 “(B) take any adverse action against a sin-
6 gle-sex social organization, or a student who is
7 a member or a prospective member of a single-
8 sex social organization, based on the member-
9 ship practice of such organization limiting
10 membership only to individuals of one sex; or

11 “(C) impose a recruitment restriction (in-
12 cluding a recruitment restriction relating to the
13 schedule for membership recruitment) on a sin-
14 gle-sex social organization recognized by the in-
15 stitution, which is not imposed upon other stu-
16 dent organizations by the institution, unless the
17 organization (or a council of similar organiza-
18 tions) and the institution have entered into a
19 mutually agreed upon written agreement that
20 allows the institution to impose such restriction.

21 “(3) RULES OF CONSTRUCTION.—Nothing in
22 this subsection shall—

23 “(A) require an institution of higher edu-
24 cation to officially recognize a single-sex social
25 organization;

1 “(B) prohibit an institution of higher edu-
2 cation from taking an adverse action against a
3 student who organizes, leads, or joins a single-
4 sex social organization—

5 “(i) due to academic or nonacademic
6 misconduct; or

7 “(ii)(I) for public institutions, because
8 the organization’s purpose is directed to
9 inciting or producing imminent lawless ac-
10 tion and likely to incite or produce such
11 action; or

12 “(II) for private institutions, because
13 the organization’s purpose is incompatible
14 with the religious mission of the institu-
15 tion, so long as that adverse action is not
16 based on the membership practice of the
17 organization of limiting membership only
18 to individuals of one sex;

19 “(C) prevent a single-sex social organiza-
20 tion from regulating its own membership;

21 “(D) inhibit the ability of the faculty of an
22 institution of higher education to express an
23 opinion (either individually or collectively) about
24 membership in a single-sex social organization,
25 or otherwise inhibit the academic freedom of

1 such faculty to research, write, or publish mate-
2 rial about membership in such an organization;
3 or

4 “(E) create enforceable rights against a
5 single-sex social organization or against an in-
6 stitution of higher education due to the decision
7 of the organization to deny membership to an
8 individual student.

9 “(4) DEFINITIONS.—In this subsection:

10 “(A) ADVERSE ACTION.—The term ‘ad-
11 verse action’ includes the following actions
12 taken by an institution of higher education with
13 respect to a single-sex social organization or a
14 member or prospective member of a single-sex
15 social organization:

16 “(i) Expulsion, suspension, probation,
17 censure, condemnation, formal reprimand,
18 or any other disciplinary action, coercive
19 action, or sanction taken by an institution
20 of higher education or administrative unit
21 of such institution.

22 “(ii) An oral or written warning with
23 respect to an action described in clause (i)
24 made by an official of an institution of

1 higher education acting in their official ca-
2 pacity.

3 “(iii) An action to deny participation
4 in any education program or activity, in-
5 cluding the withholding of any rights,
6 privileges, or opportunities afforded other
7 students on campus.

8 “(iv) An action to withhold, in whole
9 or in part, any financial assistance (includ-
10 ing scholarships and on-campus employ-
11 ment), or denying the opportunity to apply
12 for financial assistance, a scholarship, a
13 graduate fellowship, or on-campus employ-
14 ment.

15 “(v) An action to deny or restrict ac-
16 cess to on-campus housing.

17 “(vi) An act to deny any certification,
18 endorsement, or letter of recommendation
19 that may be required by a student’s cur-
20 rent or future employer, a government
21 agency, a licensing board, an institution of
22 higher education, a scholarship program,
23 or a graduate fellowship to which the stu-
24 dent applies or seeks to apply.

1 “(vii) An action to deny participation
2 in any sports team, club, or other student
3 organization, including a denial of any
4 leadership position in any sports team,
5 club, or other student organization.

6 “(viii) An action to withdraw the in-
7 stitution’s official recognition of such orga-
8 nization.

9 “(ix) An action to require any student
10 to certify that such student is not a mem-
11 ber of a single-sex social organization or to
12 disclose the student’s membership in a sin-
13 gle-sex social organization.

14 “(x) An action to interject an institu-
15 tion’s own criteria into the membership
16 practices of the organization in any man-
17 ner that conflicts with the rights of such
18 organization under title IX of the Edu-
19 cation Amendments of 1972 (20 U.S.C.
20 1681 et seq.) or this subsection.

21 “(xi) An action to impose additional
22 requirements on advisors serving a single-
23 sex social organization that are not im-
24 posed on all other student organizations.

1 “(B) SINGLE-SEX SOCIAL ORGANIZA-
2 TION.—The term ‘single-sex social organization’
3 means—

4 “(i) a social fraternity or sorority de-
5 scribed in section 501(c) of the Internal
6 Revenue Code of 1986 which is exempt
7 from taxation under section 501(a) of such
8 Code, or an organization that has been his-
9 torically single-sex, the active membership
10 of which consists primarily of students or
11 alumni of an institution of higher edu-
12 cation; or

13 “(ii) a single-sex private social club
14 (including an independent organization lo-
15 cated off-campus) that consists primarily
16 of students or alumni of an institution of
17 higher education.”.

18 **SEC. 5. FREE SPEECH ON CAMPUS.**

19 The Higher Education Act of 1965 (20 U.S.C. 1001
20 et seq.), as amended by section 4 of this Act, is further
21 amended by inserting after section 112C the following new
22 section:

23 **“SEC. 112D. FREE SPEECH ON CAMPUS.**

24 “(a) IN GENERAL.—A covered public institution
25 shall—

1 “(1) at each orientation for new and transfer
2 students, provide students attending the orienta-
3 tion—

4 “(A) a written statement that—

5 “(i) explains the rights of students
6 under the First Amendment to the Con-
7 stitution;

8 “(ii) affirms the importance of, and
9 the commitment of the institution to, free-
10 dom of expression; and

11 “(iii) includes assurances that stu-
12 dents, and individuals invited by students
13 to speak at the institution, will not be
14 treated in a manner that violates the free-
15 dom of expression of such students or indi-
16 viduals; and

17 “(B) educational programming (including
18 online resources) that describes their free
19 speech rights and responsibilities under the
20 First Amendment to the Constitution; and

21 “(2) post on the publicly accessible website of
22 the institution the statement described in paragraph
23 (1)(A).

24 “(b) **CAMPUS FREE SPEECH AND RESTORATION.**—

1 “(1) DEFINITION OF EXPRESSIVE ACTIVI-
2 TIES.—In this subsection, the term ‘expressive activ-
3 ity’—

4 “(A) includes—

5 “(i) peacefully assembling, protesting,
6 speaking, or listening;

7 “(ii) distributing literature;

8 “(iii) carrying a sign;

9 “(iv) circulating a petition; or

10 “(v) other expressive activities guar-
11 anteed under the First Amendment to the
12 Constitution;

13 “(B) applies equally to religious expression
14 as it does to nonreligious expression; and

15 “(C) does not include unprotected speech
16 (as defined by the precedents of the Supreme
17 Court of the United States).

18 “(2) EXPRESSIVE ACTIVITIES AT AN INSTITU-
19 TION.—

20 “(A) IN GENERAL.—A covered public insti-
21 tution may not prohibit, subject to subpara-
22 graph (B), a person from freely engaging in
23 noncommercial expressive activity in a generally
24 accessible area on the institution’s campus if
25 the person’s conduct is lawful. The publicly ac-

1 cessible outdoor areas of campuses of public in-
2 stitutions of higher education shall be regulated
3 pursuant to rules applicable to traditional pub-
4 lic forums.

5 “(B) RESTRICTIONS.—A covered public in-
6 stitution may not maintain or enforce time,
7 place, or manner restrictions on an expressive
8 activity in a generally accessible area of the in-
9 stitution’s campus unless the restriction—

10 “(i) is narrowly tailored in further-
11 ance of a significant governmental interest;

12 “(ii) is based on published, content-
13 neutral, and viewpoint-neutral criteria;

14 “(iii) leaves open ample alternative
15 channels for communication; and

16 “(iv) provides for spontaneous assem-
17 bly and distribution of literature.

18 “(C) APPLICATION.—The protections pro-
19 vided under subparagraph (A) do not apply to
20 expressive activity in an area on an institution’s
21 campus that is not a generally accessible area.

22 “(D) NONAPPLICATION TO SERVICE ACAD-
23 EMIES.—This subsection shall not apply to an
24 institution of higher education whose primary
25 purpose is the education of individuals for the

1 military services of the United States, or the
2 merchant marine.

3 “(c) PROHIBITION ON USE OF POLITICAL TESTS.—

4 “(1) IN GENERAL.—A covered public institution
5 may not consider, require, or discriminate on the
6 basis of a political test in the admission, appoint-
7 ment, hiring, employment, or promotion of any cov-
8 ered individual, or in the granting of tenure to any
9 covered individual.

10 “(2) RULE OF CONSTRUCTION.—Nothing in
11 this subsection shall be construed—

12 “(A) to prohibit an institution of higher
13 education whose primary purpose is the edu-
14 cation of individuals for the military services of
15 the United States, or the merchant marine,
16 from requiring an applicant, student, or em-
17 ployee to take an oath to uphold the Constitu-
18 tion of the United States;

19 “(B) to prohibit an institution of higher
20 education from requiring a student, faculty
21 member, or employee to comply with Federal or
22 State antidiscrimination laws or from taking ac-
23 tion against a student, faculty member, or em-
24 ployee for violations of Federal or State anti-
25 discrimination laws, as applicable;

1 “(C) to prohibit an institution of higher
2 education from evaluating a prospective stu-
3 dent, an employee, or a prospective employee
4 based on their knowingly providing material
5 support or resources to an organization des-
6 ignated as a foreign terrorist organization pur-
7 suant to section 219 of the Immigration and
8 Nationality Act (8 U.S.C. 1189);

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

16 “(E) to apply to activities of registered
17 student organizations.

18 “(3) DEFINITIONS.—In this subsection:

19 “(A) COVERED INDIVIDUAL.—The term
20 ‘covered individual’ means, with respect to an
21 institution of higher education that is a public
22 institution—

23 “(i) a prospective student who has
24 submitted an application to attend such in-
25 stitution;

1 “(ii) a student who attends such insti-
2 tution;

3 “(iii) a prospective employee who has
4 submitted an application to work at such
5 institution;

6 “(iv) an employee who works at such
7 institution;

8 “(v) a prospective faculty member
9 who has submitted an application to work
10 at such institution; and

11 “(vi) a faculty member who works at
12 such institution.

13 “(B) MATERIAL SUPPORT OR RE-
14 SOURCES.—The term ‘material support or re-
15 sources’ has the meaning given that term in
16 section 2339A of title 18, United States Code
17 (including the definitions of ‘training’ and ‘ex-
18 pert advice or assistance’ in that section).

19 “(C) POLITICAL TEST.—The term ‘political
20 test’ means a method of compelling or soliciting
21 an applicant for enrollment or employment, stu-
22 dent, or employee of an institution of higher
23 education to identify commitment to or make a
24 statement of personal belief in support of any
25 ideology or movement that—

1 “(i) supports or opposes a specific
2 partisan or political set of beliefs;

3 “(ii) supports or opposes a particular
4 viewpoint on a social or political issue; or

5 “(iii) promotes the disparate treat-
6 ment of any individual or group of individ-
7 uals on the basis of race, color, or national
8 origin, including—

9 “(I) any initiative or formulation
10 of diversity, equity, and inclusion be-
11 yond upholding existing Federal law;
12 or

13 “(II) any theory or practice that
14 holds that systems or institutions up-
15 holding existing Federal law are rac-
16 ist, oppressive, or otherwise unjust.”.

17 **SEC. 6. ENFORCEMENT.**

18 (a) PROGRAM PARTICIPATION AGREEMENT.—Section
19 487(a) of the Higher Education Act of 1965 (20 U.S.C.
20 1094(a)) is amended by adding at the end the following:

21 “(30)(A) In the case of an institution that is a
22 public institution, the institution will comply with all
23 the requirements of sections 112B through 112D.

1 “(B) In the case of an institution that is not a
2 public institution, the institution will comply with
3 sections 112B and 112C(e).

4 “(C) An institution that fails to comply with
5 section 112B or 112C(e) shall—

6 “(i) be ineligible to participate in the pro-
7 grams authorized by this title for a period of
8 not less than 1 award year; and

9 “(ii) in order to regain eligibility to partici-
10 pate in such programs, demonstrate compliance
11 with all requirements of such section for not
12 less than one award year after the award year
13 in which such institution became ineligible.”.

14 (b) CAUSE OF ACTION.—The Higher Education Act
15 of 1965 (20 U.S.C. 1001 et seq.), as amended by section
16 5 of this Act, is further amended by inserting after section
17 112D the following new section:

18 **“SEC. 112E. ENFORCEMENT.**

19 “(a) CAUSE OF ACTION.—

20 “(1) CIVIL ACTION.—After exhaustion of any
21 available appeals under section 112C(a), an ag-
22 grievied individual who, or an aggrieved organization
23 that, is harmed by the maintenance of a policy or
24 practice by a covered public institution that is in vio-
25 lation of a requirement described in section 112B,

1 112C, or 112D may bring a civil action in a Federal
2 court for appropriate relief.

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

5 “(A) a temporary or permanent injunction;
6 and

7 “(B) awarding a prevailing plaintiff—

8 “(i) compensatory damages;

9 “(ii) reasonable court costs; and

10 “(iii) reasonable attorney’s fees.

11 “(3) STATUTE OF LIMITATIONS.—A civil action
12 under this subsection may not be commenced later
13 than 2 years after the cause of action accrues. For
14 purposes of calculating the two-year limitation pe-
15 riod, each day that the violation of a requirement
16 described in section 112B, 112C, or 112D persists,
17 and each day that a policy in violation of a require-
18 ment described in section 112B, 112C, or 112D re-
19 mains in effect, shall constitute a new day that the
20 cause of action has accrued.

21 “(b) NONDEFAULT, FINAL JUDGMENT.—In the case
22 of a court’s nondefault, final judgment in a civil action
23 brought under subsection (a) that a covered public institu-
24 tion is in violation of a requirement described in section

1 112B, 112C, or 112D, such covered public institution
2 shall—

3 “(1) not later than 7 days after the date on
4 which the court makes such a nondefault, final judg-
5 ment, notify the Secretary of such judgment and
6 submit to the Secretary a copy of the nondefault,
7 final judgment; and

8 “(2) not later than 30 days after the date on
9 which the court makes such a nondefault, final judg-
10 ment, submit to the Secretary a report that—

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

15 “(B) provides evidence to support such cer-
16 tification.

17 “(c) REVOCATION OF ELIGIBILITY.—In the case of
18 a covered public institution that does not notify the Sec-
19 retary as required under subsection (b)(1) or submit the
20 report required under subsection (b)(2), the Secretary
21 shall revoke the eligibility of such institution to participate
22 in a program authorized under title IV for each award
23 year following the conclusion of the award year in which
24 a court made a nondefault, final judgment in a civil action
25 brought under subsection (a) that the institution is in vio-

1 lation of a requirement described in section 112B, 112C,
2 or 112D.

3 “(d) RESTORATION OF ELIGIBILITY.—

4 “(1) IN GENERAL.—A covered public institution
5 that loses eligibility under subsection (e) to partici-
6 pate in a program authorized under title IV may
7 seek to restore such eligibility by submitting to the
8 Secretary the report described in subsection (b)(2).

9 “(2) DETERMINATION BY THE SECRETARY.—

10 Not later than 90 days after a covered public insti-
11 tution submits a report under paragraph (1), the
12 Secretary shall review such report and make a deter-
13 mination with respect to whether such report con-
14 tained sufficient evidence to demonstrate that such
15 institution is no longer in violation of a requirement
16 described in section 112B, 112C, or 112D.

17 “(3) RESTORATION.—If the Secretary makes a
18 determination under paragraph (2) that the covered
19 public institution is no longer in violation of a re-
20 quirement described in section 112B, 112C, or
21 112D, the Secretary shall restore the eligibility of
22 such institution to participate in a program author-
23 ized under title IV for each award year following the
24 conclusion of the award year in which such deter-
25 mination is made.

1 “(e) REPORT TO CONGRESS.—Not later than 1 year
2 after the date of the enactment of this section, and on
3 an annual basis thereafter, the Secretary shall submit to
4 the Committee on Education and the Workforce of the
5 House of Representatives and the Senate Committee on
6 Health, Education, Labor, and Pensions a report that in-
7 cludes—

8 “(1) a compilation of—

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

13 “(B) the reports submitted to the Sec-
14 retary under subsection (b)(2) for such year;
15 and

16 “(2) any action taken by the Secretary to re-
17 voke or restore eligibility under subsections (c) and
18 (d) for such year.

19 “(f) VOLUNTARY WAIVER OF STATE AND LOCAL
20 SOVEREIGN IMMUNITY AS CONDITION OF RECEIVING
21 FEDERAL FUNDING.—The receipt, on or after the date
22 of enactment of this section, of any Federal funding under
23 title IV of this Act by a State or political subdivision of
24 a State (including any municipal or county government)
25 is deemed to constitute a clear and unequivocal expression

1 of, and agreement to, waiving sovereign immunity under
2 the 11th Amendment to the Constitution or otherwise, to
3 a civil action for injunctive relief, compensatory damages,
4 court costs, and attorney’s fees under this section.

5 “(g) DEFINITION.—In this section, the term ‘non-
6 default, final judgment’ means a final judgment by a court
7 for a civil action brought under subsection (a) that a cov-
8 ered public institution is in violation of a requirement de-
9 scribed in section 112B, 112C, or 112D that the covered
10 public institution chooses not to appeal or that is not sub-
11 ject to further appeal.”.

