

118TH CONGRESS  
2D SESSION

# H. R. 7683

To amend the Higher Education Act of 1965 to require institutions of higher education to adopt and adhere to principles of free speech, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 2024

Mr. WILLIAMS of New York (for himself, Mr. THOMPSON of Pennsylvania, and Ms. FOXX) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To amend the Higher Education Act of 1965 to require institutions of higher education to adopt and adhere to principles of free speech, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Respecting the First  
5 Amendment on Campus Act”.

6 **SEC. 2. SENSE OF CONGRESS.**

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

1 **“SEC. 112A. SENSE OF CONGRESS; CONSTRUCTION; DEFINI-**  
2 **TION.**

3 “(a) SENSE OF CONGRESS.—

4 “(1) ADOPTION OF CHICAGO PRINCIPLES.—The  
5 Congress—

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

9 “(B) acknowledges the profound contribu-  
10 tion of the Chicago Principles to the freedom of  
11 speech and expression; and

12 “(C) calls on nonsectarian institutions of  
13 higher education to adopt the Chicago Prin-  
14 ciples or substantially similar principles with re-  
15 spect to institutional mission that emphasizes a  
16 commitment to freedom of speech and expres-  
17 sion on university campuses and to develop and  
18 consistently implement policies accordingly.

19 “(2) POLITICAL LITMUS TESTS.—The Con-  
20 gress—

21 “(A) condemns public institutions of high-  
22 er education for conditioning admission to any  
23 student applicant, or the hiring, reappointment,  
24 or promotion of any faculty member, on the ap-  
25 plicant or faculty member pledging allegiance to  
26 or making a statement of personal support for

1 or opposition to any political ideology or move-  
2 ment, including a pledge or statement regarding  
3 diversity, equity, and inclusion, or related top-  
4 ics; and

5 “(B) discourages any institution from re-  
6 questing or requiring any such pledge or state-  
7 ment from an applicant or faculty member, as  
8 such actions are antithetical to the freedom of  
9 speech protected by the First Amendment to  
10 the Constitution.

11 “(b) CONSTRUCTION.—Nothing in sections 112B  
12 through 112E shall be construed to infringe upon, or oth-  
13 erwise impact, the protections provided to individuals  
14 under titles VI and VII of the Civil Rights Act of 1964  
15 (42 U.S.C. 2000d et seq.).

16 “(c) DEFINITION.—For purposes of sections 112C,  
17 112D, and 112E, the term ‘covered public institution’  
18 means an institution of higher education that is—

19 “(1) a public institution; and

20 “(2) participating in a program authorized  
21 under title IV.”.

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

23 The Higher Education Act of 1965 (20 U.S.C. 1001  
24 et seq.), as amended by section 2 of this Act, is further

1 amended by inserting after section 112A the following new  
2 section:

3 **“SEC. 112B. DISCLOSURE OF POLICIES RELATED TO FREE-**  
4 **DOM OF SPEECH, ASSOCIATION, AND RELI-**  
5 **GION.**

6 “(a) IN GENERAL.—No institution of higher edu-  
7 cation shall be eligible to participate in any program under  
8 title IV unless the institution certifies to the Secretary  
9 that the institution has annually disclosed to current and  
10 prospective students and faculty—

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

13 “(A) speech on campus, including policies  
14 limiting—

15 “(i) the time when such speech may  
16 occur;

17 “(ii) the place where such speech may  
18 occur; or

19 “(iii) the manner in which such  
20 speech may occur;

21 “(B) freedom of association, if applicable;  
22 and

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

24 “(2) the right to a cause of action under section  
25 112E, if the institution is a public institution.

1       “(b) INTENDED BENEFICIARIES.—The certification  
2 specified in subsection (a) shall include an acknowledg-  
3 ment from the institution that the students and faculty  
4 are the intended beneficiaries of the policies disclosed in  
5 the certification.”.

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

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

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

12       “(a) STUDENTS’ BILL OF RIGHTS TO FURTHER  
13 PROTECT SPEECH AND ASSOCIATION.—

14               “(1) PROTECTED RIGHTS.—A covered public in-  
15 stitution shall comply with the following require-  
16 ments:

17                       “(A) RECOGNIZED STUDENT ORGANIZA-  
18 TIONS.—A covered public institution that has  
19 recognized student organizations shall comply  
20 with the following requirements:

21                               “(i) FACULTY ADVISORS.—

22                                       “(I) IN GENERAL.—A covered  
23 public institution may not deny rec-  
24 ognition to a student organization be-  
25 cause the organization is unable to ob-

1           tain a faculty advisor or sponsor, if  
2           the organization meets each of the  
3           other content- and viewpoint-neutral  
4           institutional requirements for such  
5           recognition.

6                   “(II) ALTERNATIVE.—An institu-  
7           tion described in subclause (I) shall  
8           ensure that any policy or practice re-  
9           lated to the recognition of a student  
10          organization—

11                   “(aa) in the case of an orga-  
12          nization that meets each of the  
13          other content- and viewpoint-neu-  
14          tral institutional requirements for  
15          such recognition but is unable to  
16          obtain a faculty advisor or spon-  
17          sor, provides for an alternative to  
18          any requirement that a faculty or  
19          staff member serve as the faculty  
20          advisor or sponsor as a condition  
21          for recognition of the student or-  
22          ganization, which alternative may  
23          include—

24                   “(AA) waiver of such  
25                  requirement; or

1                   “(BB) the institution  
2                   assigning a faculty or staff  
3                   member to such organiza-  
4                   tion; and

5                   “(bb) does not require a fac-  
6                   ulty or staff member of the insti-  
7                   tution assigned to serve as fac-  
8                   ulty advisor pursuant to item  
9                   (aa)(BB) to participate in, or  
10                  support, the organization other  
11                  than by performing the purely  
12                  administrative functions required  
13                  of a faculty advisor.

14                  “(ii) APPEAL OPTIONS FOR RECOGNI-  
15                  TION.—

16                  “(I) IN GENERAL.—A covered  
17                  public institution shall provide an ap-  
18                  peals process by which a student orga-  
19                  nization that has been denied recogni-  
20                  tion by the institution may appeal to  
21                  an institutional appellate entity for re-  
22                  consideration.

23                  “(II) REQUIREMENTS.—The ap-  
24                  peal process shall—

1           “(aa) require the covered  
2 public institution to provide a  
3 written explanation for the basis  
4 for the denial of recognition in a  
5 timely manner, which shall in-  
6 clude a copy of all policies relied  
7 upon by the institution as a basis  
8 for the denial;

9           “(bb) require the covered  
10 public institution to provide writ-  
11 ten notice to the students seeking  
12 recognition of the appeal process  
13 and the timeline for hearing and  
14 resolving the appeal;

15           “(cc) allow the students  
16 seeking recognition to obtain out-  
17 side counsel to represent them  
18 during the appeal; and

19           “(dd) ensure that such ap-  
20 pellate entity did not participate  
21 in any prior proceeding related to  
22 the denial of recognition to the  
23 student organization.

24           “(B) DISTRIBUTION OF FUNDS TO STU-  
25           UDENT ORGANIZATIONS.—A covered public insti-



1           tution that collects a mandatory fee from stu-  
2           dents for the costs of student activities or  
3           events (or both), and provides funds generated  
4           from such student fees to one or more recog-  
5           nized student organizations of the institution,  
6           shall—

7                   “(i) establish and make publicly avail-  
8                   able clear, objective, content- and view-  
9                   point-neutral, and exhaustive standards to  
10                  be used by the institution to determine—

11                           “(I) the total amount of funds  
12                           made available for allocations to the  
13                           recognized student organizations; and

14                           “(II) the allocations of such total  
15                           amount to individual recognized stu-  
16                           dent organizations;

17                   “(ii) ensure that allocations are made  
18                   to the recognized student organizations in  
19                   accordance with the standards established  
20                   pursuant to clause (i);

21                   “(iii) upon the request of a recognized  
22                   student organization that has been denied  
23                   all or a portion of an allocation described  
24                   in clause (ii), provide to the organization,  
25                   in writing (which may include electronic

1 communication) and in a timely manner,  
2 the specific reasons for such denial, copies  
3 of all policies relied upon by the institution  
4 as basis for the denial, and information of  
5 the appeals process described in clause  
6 (iv); and

7 “(iv) provide an appeals process by  
8 which a recognized student organization  
9 that has been denied all or a portion of an  
10 allocation described in clause (ii) may ap-  
11 peal to an institutional appellate entity for  
12 reconsideration, which appeals process—

13 “(I) shall require the covered  
14 public institution to provide written  
15 notice to the students seeking an allo-  
16 cation through the appeal process and  
17 the timeline for hearing and resolving  
18 the appeal;

19 “(II) allow the students seeking  
20 an allocation to obtain outside counsel  
21 to represent them during the appeal;  
22 and

23 “(III) require the institution to  
24 ensure that such appellate entity did

1 not participate in any prior pro-  
2 ceeding related to such allocation.

3 “(C) ASSESSMENT OF SECURITY FEES FOR  
4 EVENTS.—A covered public institution shall es-  
5 tablish and make publicly available clear, objec-  
6 tive, content- and viewpoint-neutral, and ex-  
7 haustive standards to be used by the institution  
8 to—

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

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

15 “(I) the content of expression or  
16 viewpoint of the student or student  
17 organization;

18 “(II) the content of expression of  
19 the event or activity organized by the  
20 student or student organization;

21 “(III) the content of expression  
22 or viewpoint of an invited guest of the  
23 student or student organization; or

24 “(IV) an anticipated reaction by  
25 students or the public to the event.

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

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

10           “(A) RECOGNIZED STUDENT ORGANIZA-  
11           TION.—The term ‘recognized student organiza-  
12           tion’ means a student organization that has  
13           been determined by a covered public institution  
14           to meet institutional requirements to qualify for  
15           certain privileges granted by the institution,  
16           such as use of institutional venues, resources,  
17           and funding.

18           “(B) SECURITY FEE.—The term ‘security  
19           fee’ means a fee charged to a student or stu-  
20           dent organization for an event or activity orga-  
21           nized by the student or student organization on  
22           the campus of the institution that is intended to  
23           cover some or all of the costs incurred by the  
24           institution for additional security measures  
25           needed to ensure the security of the institution,

1 students, faculty, staff, or surrounding commu-  
2 nity as a result of such event or activity.

3 “(b) EQUAL CAMPUS ACCESS.—A covered public in-  
4 stitution shall not deny to a religious student organization  
5 any right, benefit, or privilege that is otherwise afforded  
6 to other student organizations at the institution (including  
7 full access to the facilities of the institution and official  
8 recognition of the organization by the institution) because  
9 of the religious beliefs, practices, speech, leadership stand-  
10 ards, or standards of conduct of the religious student or-  
11 ganization.

12 “(c) FREEDOM OF ASSOCIATION.—

13 “(1) UPHOLDING FREEDOM OF ASSOCIATION  
14 PROTECTIONS.—Any student (or group of students)  
15 enrolled in an institution of higher education that  
16 receives funds under this Act, including through an  
17 institution’s participation in any program under title  
18 IV, shall—

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

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

24 “(C) if selected for membership by any sin-  
25 gle-sex social organization, be able to join, and

1           participate in, such single-sex organization, sub-  
2           ject to its standards for regulating its own  
3           membership, as provided under paragraph  
4           (3)(C).

5           “(2) NON-RETALIATION AGAINST STUDENTS OF  
6           SINGLE-SEX SOCIAL ORGANIZATIONS.—An institu-  
7           tion of higher education that receives funds under  
8           this Act, including through an institution’s partici-  
9           pation in any program under title IV, shall not—

10           “(A) take any action to require or coerce  
11           a student or prospective student who is a mem-  
12           ber or prospective member of a single-sex social  
13           organization to waive the protections provided  
14           under paragraph (1), including as a condition  
15           of enrolling in the institution;

16           “(B) take any adverse action against a sin-  
17           gle-sex social organization, or a student who is  
18           a member or a prospective member of a single-  
19           sex social organization, based on the member-  
20           ship practice of such organization limiting  
21           membership only to individuals of one sex; or

22           “(C) impose a recruitment restriction (in-  
23           cluding a recruitment restriction relating to the  
24           schedule for membership recruitment) on a sin-  
25           gle-sex social organization recognized by the in-

1           stitution, which is not imposed upon other stu-  
2           dent organizations by the institution, unless the  
3           organization (or a council of similar organiza-  
4           tions) and the institution have entered into a  
5           mutually agreed-upon written agreement that  
6           allows the institution to impose such restriction.

7           “(3) RULES OF CONSTRUCTION.—Nothing in  
8           this subsection shall—

9                   “(A) require an institution of higher edu-  
10                  cation to officially recognize a single-sex social  
11                  organization;

12                  “(B) prohibit an institution of higher edu-  
13                  cation from taking an adverse action against a  
14                  student who organizes, leads, or joins a single-  
15                  sex social organization—

16                          “(i) due to academic or nonacademic  
17                          misconduct; or

18                          “(ii)(I) for public institutions, because  
19                          the organization’s purpose is directed to  
20                          inciting or producing imminent lawless ac-  
21                          tion and likely to incite or produce such  
22                          action; or

23                          “(II) for private institutions, because  
24                          the organization’s purpose is incompatible  
25                          with the religious mission of the institu-

1           tion, so long as that adverse action is not  
2           based on the membership practice of the  
3           organization of limiting membership only  
4           to individuals of one sex;

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

7           “(D) inhibit the ability of the faculty of an  
8           institution of higher education to express an  
9           opinion (either individually or collectively) about  
10          membership in a single-sex social organization,  
11          or otherwise inhibit the academic freedom of  
12          such faculty to research, write, or publish mate-  
13          rial about membership in such an organization;  
14          or

15          “(E) create enforceable rights against a  
16          single-sex social organization or against an in-  
17          stitution of higher education due to the decision  
18          of the organization to deny membership to an  
19          individual student.

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

21                 “(A) ADVERSE ACTION.—The term ‘ad-  
22                 verse action’ includes the following actions  
23                 taken by an institution of higher education with  
24                 respect to a single-sex social organization or a



1 member or prospective member of a single-sex  
2 social organization:

3 “(i) Expulsion, suspension, probation,  
4 censure, condemnation, formal reprimand,  
5 or any other disciplinary action, coercive  
6 action, or sanction taken by an institution  
7 of higher education or administrative unit  
8 of such institution.

9 “(ii) An oral or written warning with  
10 respect to an action described in clause (i)  
11 made by an official of an institution of  
12 higher education acting in their official ca-  
13 pacity.

14 “(iii) An action to deny participation  
15 in any education program or activity, in-  
16 cluding the withholding of any rights,  
17 privileges, or opportunities afforded other  
18 students on campus.

19 “(iv) An action to withhold, in whole  
20 or in part, any financial assistance (includ-  
21 ing scholarships and on-campus employ-  
22 ment), or denying the opportunity to apply  
23 for financial assistance, a scholarship, a  
24 graduate fellowship, or on-campus employ-  
25 ment.

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

3           “(vi) An act to deny any certification,  
4           endorsement, or letter of recommendation  
5           that may be required by a student’s cur-  
6           rent or future employer, a government  
7           agency, a licensing board, an institution of  
8           higher education, a scholarship program,  
9           or a graduate fellowship to which the stu-  
10          dent applies or seeks to apply.

11          “(vii) An action to deny participation  
12          in any sports team, club, or other student  
13          organization, including a denial of any  
14          leadership position in any sports team,  
15          club, or other student organization.

16          “(viii) An action to withdraw the in-  
17          stitution’s official recognition of such orga-  
18          nization.

19          “(ix) An action to require any student  
20          to certify that such student is not a mem-  
21          ber of a single-sex social organization or to  
22          disclose the student’s membership in a sin-  
23          gle-sex social organization.

24          “(x) An action to interject an institu-  
25          tion’s own criteria into the membership

1 practices of the organization in any man-  
2 ner that conflicts with the rights of such  
3 organization under title IX of the Edu-  
4 cation Amendments of 1972 (20 U.S.C.  
5 1681 et seq.) or this subsection.

6 “(xi) An action to impose additional  
7 requirements on advisors serving a single-  
8 sex social organization that are not im-  
9 posed on all other student organizations.

10 “(B) SINGLE-SEX SOCIAL ORGANIZA-  
11 TION.—The term ‘single-sex social organization’  
12 means—

13 “(i) a social fraternity or sorority de-  
14 scribed in section 501(c) of the Internal  
15 Revenue Code of 1986 which is exempt  
16 from taxation under section 501(a) of such  
17 Code, or an organization that has been his-  
18 torically single-sex, the active membership  
19 of which consists primarily of students or  
20 alumni of an institution of higher edu-  
21 cation; or

22 “(ii) a single-sex private social club  
23 (including an independent organization lo-  
24 cated off-campus) that consists primarily

1 of students or alumni of an institution of  
2 higher education.”.

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

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

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

9 “(a) IN GENERAL.—A covered public institution  
10 shall—

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

14 “(A) a written statement that—

15 “(i) explains the rights of students  
16 under the First Amendment to the Con-  
17 stitution;

18 “(ii) affirms the importance of, and  
19 the commitment of the institution to, free-  
20 dom of expression; and

21 “(iii) includes assurances that stu-  
22 dents, and individuals invited by students  
23 to speak at the institution, will not be  
24 treated in a manner that violates the free-

1 dom of expression of such students or indi-  
2 viduals; and

3 “(B) educational programming (including  
4 online resources) that describes their free  
5 speech rights and responsibilities under the  
6 First Amendment to the Constitution; and

7 “(2) post on the publicly accessible website of  
8 the institution the statement described in paragraph  
9 (1)(A).

10 “(b) CAMPUS FREE SPEECH AND RESTORATION.—

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

14 “(A) includes—

15 “(i) peacefully assembling, protesting,  
16 speaking, or listening;

17 “(ii) distributing literature;

18 “(iii) carrying a sign;

19 “(iv) circulating a petition; or

20 “(v) other expressive activities guar-  
21 anteed under the First Amendment to the  
22 Constitution;

23 “(B) applies equally to religious expression  
24 as it does to non-religious expression; and

1           “(C) does not include unprotected speech  
2           (as defined by the precedents of the Supreme  
3           Court of the United States).

4           “(2) EXPRESSIVE ACTIVITIES AT AN INSTITU-  
5           TION.—

6           “(A) IN GENERAL.—A covered public insti-  
7           tution may not prohibit, subject to subpara-  
8           graph (B), a person from freely engaging in  
9           noncommercial expressive activity in a generally  
10          accessible area on the institution’s campus if  
11          the person’s conduct is lawful. The publicly ac-  
12          cessible outdoor areas of campuses of public in-  
13          stitutions of higher education shall be regulated  
14          pursuant to rules applicable to traditional pub-  
15          lic forums.

16          “(B) RESTRICTIONS.—A covered public in-  
17          stitution may not maintain or enforce time,  
18          place, or manner restrictions on an expressive  
19          activity in a generally accessible area of the in-  
20          stitution’s campus unless the restriction—

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

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

1                   “(iii) leaves open ample alternative  
2 channels for communication; and

3                   “(iv) provides for spontaneous assem-  
4 bly and distribution of literature.

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

9                   “(D) NONAPPLICATION TO SERVICE ACAD-  
10 EMIES.—This subsection shall not apply to an  
11 institution of higher education whose primary  
12 purpose is the education of individuals for the  
13 military services of the United States, or the  
14 merchant marine.

15                   “(e) PROHIBITION ON USE OF POLITICAL TESTS.—

16                   “(1) IN GENERAL.—A covered public institution  
17 may not consider, require, or discriminate on the  
18 basis of a political test in the admission, appoint-  
19 ment, hiring, employment, or promotion of any cov-  
20 ered individual, or in the granting of tenure to any  
21 covered individual.

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

24                   “(A) to prohibit an institution of higher  
25 education whose primary purpose is the edu-

1 cation of individuals for the military services of  
2 the United States, or the merchant marine,  
3 from requiring an applicant, student, or em-  
4 ployee to take an oath to uphold the Constitu-  
5 tion of the United States;

6 “(B) to prohibit an institution of higher  
7 education from requiring a student, faculty  
8 member, or employee to comply with Federal or  
9 State anti-discrimination laws or from taking  
10 action against a student, faculty member, or  
11 employee for violations of Federal or State anti-  
12 discrimination laws, as applicable;

13 “(C) to prohibit an institution of higher  
14 education from evaluating a prospective stu-  
15 dent, an employee, or a prospective employee  
16 based on their knowingly providing material  
17 support or resources to an organization des-  
18 ignated as a foreign terrorist organization pur-  
19 suant to section 219 of the Immigration and  
20 Nationality Act (8 U.S.C. 1189);

21 “(D) to prohibit an institution of higher  
22 education from considering the subject-matter  
23 competency including the research and creative  
24 works, of any candidate for a faculty position or  
25 faculty member considered for promotion when



1 the subject matter is germane to their given  
2 field of scholarship; or

3 “(E) to apply to activities of registered  
4 student organizations.

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

6 “(A) COVERED INDIVIDUAL.—The term  
7 ‘covered individual’ means, with respect to an  
8 institution of higher education that is a public  
9 institution—

10 “(i) a prospective student who has  
11 submitted an application to attend such in-  
12 stitution;

13 “(ii) a student who attends such insti-  
14 tution;

15 “(iii) a prospective employee who has  
16 submitted an application to work at such  
17 institution;

18 “(iv) an employee who works at such  
19 institution;

20 “(v) a prospective faculty member  
21 who has submitted an application to work  
22 at such institution; and

23 “(vi) a faculty member who works at  
24 such institution.

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

7           “(C) POLITICAL TEST.—The term ‘political  
8 test’ means a method of compelling or soliciting  
9 an applicant for enrollment or employment, stu-  
10 dent, or employee of an institution of higher  
11 education to identify commitment to or make a  
12 statement of personal belief in support of any  
13 ideology or movement that—

14           “(i) supports or opposes a specific  
15 partisan or political set of beliefs;

16           “(ii) supports or opposes a particular  
17 viewpoint on a social or political issue; or

18           “(iii) promotes the disparate treat-  
19 ment of any individual or group of individ-  
20 uals on the basis of race, color, or national  
21 origin, including—

22           “(I) any initiative or formulation  
23 of diversity, equity, and inclusion be-  
24 yond upholding existing Federal law;  
25 or

1                   “(II) any theory or practice that  
2                   holds that systems or institutions up-  
3                   holding existing Federal law are rac-  
4                   ist, oppressive, or otherwise unjust.”.

5 **SEC. 6. ENFORCEMENT.**

6           (a) PROGRAM PARTICIPATION AGREEMENT.—Section  
7 487(a) of the Higher Education Act of 1965 (20 U.S.C.  
8 1094(a)) is amended by adding at the end the following:

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

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

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

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

20                               “(ii) in order to regain eligibility to partici-  
21                               pate in such programs, demonstrate compliance  
22                               with all requirements of such section for not  
23                               less than one award year after the award year  
24                               in which such institution became ineligible.”.

1 (b) CAUSE OF ACTION.—The Higher Education Act  
2 of 1965 (20 U.S.C. 1001 et seq.), as amended by section  
3 5 of this Act, is further amended by inserting after section  
4 112D the following new section:

5 **“SEC. 112E. ENFORCEMENT.**

6 “(a) CAUSE OF ACTION.—

7 “(1) CIVIL ACTION.—After exhaustion of any  
8 available appeals under section 112C(a), an ag-  
9 grievied individual who, or an aggrieved organization  
10 that, is harmed by the maintenance of a policy or  
11 practice by a covered public institution that is in vio-  
12 lation of a requirement described in section 112B,  
13 112C, or 112D may bring a civil action in a Federal  
14 court for appropriate relief.

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

17 “(A) a temporary or permanent injunction;

18 and

19 “(B) awarding a prevailing plaintiff—

20 “(i) compensatory damages;

21 “(ii) reasonable court costs; and

22 “(iii) reasonable attorney’s fees.

23 “(3) STATUTE OF LIMITATIONS.—A civil action  
24 under this subsection may not be commenced later  
25 than 2 years after the cause of action accrues. For

1 purposes of calculating the two-year limitation pe-  
2 riod, each day that the violation of a requirement  
3 described in section 112B, 112C, or 112D persists,  
4 and each day that a policy in violation of a require-  
5 ment described in section 112B, 112C, or 112D re-  
6 mains in effect, shall constitute a new day that the  
7 cause of action has accrued.

8 “(b) NON-DEFAULT, FINAL JUDGMENT.—In the  
9 case of a court’s non-default, final judgment in a civil ac-  
10 tion brought under subsection (a) that a covered public  
11 institution is in violation of a requirement described in sec-  
12 tion 112B, 112C, or 112D, such covered public institution  
13 shall—

14 “(1) not later than 7 days after the date on  
15 which the court makes such a non-default, final  
16 judgment, notify the Secretary of such judgment and  
17 submit to the Secretary a copy of the non-default,  
18 final judgment; and

19 “(2) not later than 30 days after the date on  
20 which the court makes such a non-default, final  
21 judgment, submit to the Secretary a report that—

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

1                   “(B) provides evidence to support such cer-  
2                   tification.

3           “(c) REVOCATION OF ELIGIBILITY.—In the case of  
4 a covered public institution that does not notify the Sec-  
5 retary as required under subsection (b)(1) or submit the  
6 report required under subsection (b)(2), the Secretary  
7 shall revoke the eligibility of such institution to participate  
8 in a program authorized under title IV for each award  
9 year following the conclusion of the award year in which  
10 a court made a non-default, final judgment in a civil ac-  
11 tion brought under subsection (a) that the institution is  
12 in violation of a requirement described in section 112B,  
13 112C, or 112D.

14           “(d) RESTORATION OF ELIGIBILITY.—

15                   “(1) IN GENERAL.—A covered public institution  
16 that loses eligibility under subsection (c) to partici-  
17 pate in a program authorized under title IV may  
18 seek to restore such eligibility by submitting to the  
19 Secretary the report described in subsection (b)(2).

20                   “(2) DETERMINATION BY THE SECRETARY.—

21 Not later than 90 days after a covered public insti-  
22 tution submits a report under paragraph (1), the  
23 Secretary shall review such report and make a deter-  
24 mination with respect to whether such report con-  
25 tained sufficient evidence to demonstrate that such

1 institution is no longer in violation of a requirement  
2 described in section 112B, 112C, or 112D.

3 “(3) RESTORATION.—If the Secretary makes a  
4 determination under paragraph (2) that the covered  
5 public institution is no longer in violation of a re-  
6 quirement described in section 112B, 112C, or  
7 112D, the Secretary shall restore the eligibility of  
8 such institution to participate in a program author-  
9 ized under title IV for each award year following the  
10 conclusion of the award year in which such deter-  
11 mination is made.

12 “(e) REPORT TO CONGRESS.—Not later than 1 year  
13 after the date of the enactment of this section, and on  
14 an annual basis thereafter, the Secretary shall submit to  
15 the Committee on Education and the Workforce of the  
16 House of Representatives and the Senate Committee on  
17 Health, Education, Labor, and Pensions a report that in-  
18 cludes—

19 “(1) a compilation of—

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

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

4           “(2) any action taken by the Secretary revoke  
5           or restore eligibility under subsections (c) and (d)  
6           for such year.

7           “(f) VOLUNTARY WAIVER OF STATE AND LOCAL  
8 SOVEREIGN IMMUNITY AS CONDITION OF RECEIVING  
9 FEDERAL FUNDING.—The receipt, on or after the date  
10 of enactment of this section, of any Federal funding under  
11 title IV of this Act by a State or political subdivision of  
12 a State (including any municipal or county government)  
13 is deemed to constitute a clear and unequivocal expression  
14 of, and agreement to, waiving sovereign immunity under  
15 the 11th Amendment to the Constitution or otherwise, to  
16 a civil action for injunctive relief, compensatory damages,  
17 court costs, and attorney’s fees under this section.

18           “(g) DEFINITION.—In this section, the term ‘non-de-  
19 fault, final judgment’ means a final judgment by a court  
20 for a civil action brought under subsection (a) that a cov-  
21 ered public institution is in violation of a requirement de-  
22 scribed in section 112B, 112C, or 112D that the covered  
23 public institution chooses not to appeal or that is not sub-  
24 ject to further appeal.”.

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