

118TH CONGRESS
2D SESSION

H. R. 3724

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 23, 2024

Received; read twice and referred to the Committee on Health, Education,
Labor, and Pensions

AN ACT

To amend the Higher Education Act of 1965 to prohibit recognized accrediting agencies and associations from requiring, encouraging, or coercing institutions of higher education to meet any political litmus test or violate any right protected by the Constitution as a condition of accreditation.

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

4 (b) **TABLE OF CONTENTS.**—The table of contents for
5 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.

Sec. 207. Sense of Congress relating to acts of violence on campus.

6 **TITLE I—ACCREDITATION FOR**
7 **COLLEGE EXCELLENCE**

8 **SEC. 101. SHORT TITLE.**

9 This title may be cited as the “Accreditation for Col-
10 lege Excellence Act of 2024”.

11 **SEC. 102. PROHIBITION ON POLITICAL LITMUS TESTS IN**

12 **ACCREDITATION OF INSTITUTIONS OF HIGH-**

13 **ER EDUCATION.**

14 (a) **OPERATING PROCEDURES REQUIRED.**—Section
15 496(e) of the Higher Education Act of 1965 (20 U.S.C.
16 1099b(c)) is amended—

1 (1) by striking “and” at the end of paragraph
2 (8);

3 (2) in paragraph (9), by striking the period at
4 the end and inserting “; and”; and

5 (3) by adding at the end the following:

6 “(10) confirms that the standards for accredita-
7 tion of the agency or association do not—

8 “(A) except as provided in subparagraph
9 (B)—

10 “(i) require, encourage, or coerce any
11 institution to—

12 “(I) support, oppose, or commit
13 to supporting or opposing—

14 “(aa) a specific partisan, po-
15 litical, or ideological viewpoint or
16 belief or set of such viewpoints or
17 beliefs; or

18 “(bb) a a specific viewpoint
19 or belief or set of viewpoints or
20 beliefs on social, cultural, or po-
21 litical issues; or

22 “(II) support or commit to sup-
23 porting the disparate treatment of any
24 individual or group of individuals on
25 the basis of any protected class under

1 Federal civil rights law, except as re-
2 quired by Federal law or a court
3 order; or

4 “(ii) assess an institution’s or pro-
5 gram of study’s commitment to any ide-
6 ology, belief, or viewpoint;

7 “(B) prohibit an institution—

8 “(i) from having a religious mission,
9 operating as a religious institution, or
10 being controlled by a religious organization
11 (in a manner described in paragraph (1),
12 (2), (3), (4), (5), or (6) of section
13 106.12(c) of title 34, Code of Federal Reg-
14 ulations (as in effect on the date of the en-
15 actment of this paragraph)), or from re-
16 quiring an applicant, student, employee, or
17 independent contractor (such as an adjunct
18 professor) of such an institution to—

19 “(I) provide or adhere to a state-
20 ment of faith; or

21 “(II) adhere to a code of conduct
22 consistent with the stated religious
23 mission of such institution or the reli-
24 gious tenets of such organization; or

1 “(ii) from requiring an applicant, stu-
2 dent, employee, or contractor to take an
3 oath to uphold the Constitution of the
4 United States; or

5 “(C) require, encourage, or coerce an insti-
6 tution of higher education to violate any right
7 protected by the Constitution.”.

8 (b) LIMITATION ON SCOPE OF CRITERIA.—Section
9 496(g) of the Higher Education Act of 1965 (20 U.S.C.
10 1099b(g)) is amended to read as follows:

11 “(g) LIMITATION ON SCOPE OF CRITERIA.—

12 “(1) IN GENERAL.—The Secretary shall not es-
13 tablish criteria for accrediting agencies or associa-
14 tions that are not required by this section.

15 “(2) INSTITUTIONAL ELIGIBILITY.—An institu-
16 tion of higher education shall be eligible for partici-
17 pation in programs under this title if the institution
18 is in compliance with the standards of its accrediting
19 agency or association that assess the institution in
20 accordance with subsection (a)(5), regardless of any
21 additional standards adopted by the agency or asso-
22 ciation for purposes unrelated to participation in
23 programs under this title.”.

1 **SEC. 103. RULE OF CONSTRUCTION.**

2 Nothing in this title prevents religious accreditors
3 from holding and enforcing religious standards on institu-
4 tions they choose to accredit.

5 **TITLE II—RESPECTING THE**
6 **FIRST AMENDMENT ON CAMPUS**

7 **SEC. 201. SHORT TITLE.**

8 This title may be cited as the “Respecting the First
9 Amendment on Campus Act”.

10 **SEC. 202. SENSE OF CONGRESS.**

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

14 **“SEC. 112A. SENSE OF CONGRESS; CONSTRUCTION; DEFINI-**
15 **TION.**

16 “(a) SENSE OF CONGRESS.—

17 “(1) ADOPTION OF CHICAGO PRINCIPLES.—The
18 Congress—

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

22 “(B) acknowledges the profound contribu-
23 tion of the Chicago Principles to the freedom of
24 speech and expression; and

25 “(C) calls on nonsectarian institutions of
26 higher education to adopt the Chicago Prin-

1 principles or substantially similar principles with re-
2 spect to institutional mission that emphasizes a
3 commitment to freedom of speech and expres-
4 sion on university campuses and to develop and
5 consistently implement policies accordingly.

6 “(2) POLITICAL LITMUS TESTS.—The Con-
7 gress—

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

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

24 “(b) CONSTRUCTION.—Nothing in sections 112B
25 through 112E shall be construed to infringe upon, or oth-

1 erwise impact, the protections provided to individuals
2 under titles VI and VII of the Civil Rights Act of 1964
3 (42 U.S.C. 2000d et seq.).

4 “(c) DEFINITION.—For purposes of sections 112C,
5 112D, and 112E, the term ‘covered public institution’
6 means an institution of higher education that is—

7 “(1) a public institution; and

8 “(2) participating in a program authorized
9 under title IV.”.

10 **SEC. 203. DISCLOSURE OF FREE SPEECH POLICIES.**

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

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

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

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

1 “(A) speech on campus, including policies
2 limiting—

3 “(i) the time when such speech may
4 occur;

5 “(ii) the place where such speech may
6 occur; or

7 “(iii) the manner in which such
8 speech may occur;

9 “(B) freedom of association, if applicable;
10 and

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

12 “(2) the right to a cause of action under section
13 112E, if the institution is a public institution.

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

19 **SEC. 204. FREEDOM OF ASSOCIATION AND RELIGION.**

20 The Higher Education Act of 1965 (20 U.S.C. 1001
21 et seq.), as amended by section 203 of this title, is further
22 amended by inserting after section 112B the following new
23 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—

1 “(aa) in the case of an orga-
2 nization that meets each of the
3 other content- and viewpoint-neu-
4 tral institutional requirements for
5 such recognition but is unable to
6 obtain a faculty advisor or spon-
7 sor, provides for an alternative to
8 any requirement that a faculty or
9 staff member serve as the faculty
10 advisor or sponsor as a condition
11 for recognition of the student or-
12 ganization, which alternative may
13 include—

14 “(AA) waiver of such
15 requirement; or

16 “(BB) the institution
17 assigning a faculty or staff
18 member to such organiza-
19 tion; and

20 “(bb) does not require a fac-
21 ulty or staff member of the insti-
22 tution assigned to serve as fac-
23 ulty advisor pursuant to item
24 (aa)(BB) to participate in, or
25 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, including standards regarding religious identity, be-

1 lief, or practice, or standards of conduct of the religious
2 student organization.

3 “(c) FREEDOM OF ASSOCIATION.—

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

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

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

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

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

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

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

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

23 “(3) RULES OF CONSTRUCTION.—Nothing in
24 this subsection shall—

1 “(A) require an institution of higher edu-
2 cation to officially recognize a single-sex social
3 organization;

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

8 “(i) due to academic or nonacademic
9 misconduct; or

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

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

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

24 “(D) inhibit the ability of the faculty of an
25 institution of higher education to express an

1 opinion (either individually or collectively) about
2 membership in a single-sex social organization,
3 or otherwise inhibit the academic freedom of
4 such faculty to research, write, or publish mate-
5 rial about membership in such an organization;
6 or

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

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

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

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

1 “(ii) An oral or written warning with
2 respect to an action described in clause (i)
3 made by an official of an institution of
4 higher education acting in their official ca-
5 pacity.

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

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

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

20 “(vi) An act to deny any certification,
21 endorsement, or letter of recommendation
22 that may be required by a student’s cur-
23 rent or future employer, a government
24 agency, a licensing board, an institution of
25 higher education, a scholarship program,

1 or a graduate fellowship to which the stu-
2 dent applies or seeks to apply.

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

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

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

16 “(x) An action to interject an institu-
17 tion’s own criteria into the membership
18 practices of the organization in any man-
19 ner that conflicts with the rights of such
20 organization under title IX of the Edu-
21 cation Amendments of 1972 (20 U.S.C.
22 1681 et seq.) or this subsection.

23 “(xi) An action to impose additional
24 requirements on advisors serving a single-

1 sex social organization that are not im-
2 posed on all other student organizations.

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

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

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

20 “(d) CONSTRUCTION.—Nothing in this section shall
21 be construed to prohibit an institution of higher education
22 from taking any adverse action (such as denying or revok-
23 ing recognition, funding, use of institutional venues or re-
24 sources, or other privileges granted by the institution)
25 against a student organization based on the student orga-

1 nization having knowingly provided material support or re-
2 sources to an organization designated as a foreign ter-
3 rorist organization pursuant to section 219 of the Immi-
4 gration and Nationality Act (8 U.S.C. 1189).”.

5 **SEC. 205. FREE SPEECH ON CAMPUS.**

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

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

11 “(a) IN GENERAL.—A covered public institution
12 shall—

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

16 “(A) a written statement that—

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

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

23 “(iii) explains students’ protections
24 under title VI of the Civil Rights Act of
25 1964 (42 U.S.C. 2000d et seq.) and the

1 procedures for filing a discrimination claim
2 with the Office for Civil Rights of the De-
3 partment of Education; and

4 “(iv) includes assurances that stu-
5 dents, and individuals invited by students
6 to speak at the institution, will not be
7 treated in a manner that violates the free-
8 dom of expression of such students or indi-
9 viduals; and

10 “(B) educational programming (including
11 online resources) that describes their free
12 speech rights and responsibilities under the
13 First Amendment to the Constitution; and

14 “(2) post on the publicly accessible website of
15 the institution the statement described in paragraph
16 (1)(A).

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

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

21 “(A) includes—

22 “(i) peacefully assembling, protesting,
23 speaking, or listening;

24 “(ii) distributing literature;

25 “(iii) carrying a sign;

1 “(iv) circulating a petition; or

2 “(v) other expressive activities guar-
3 anteed under the First Amendment to the
4 Constitution;

5 “(B) applies equally to religious expression
6 as it does to nonreligious expression; and

7 “(C) does not include unprotected speech
8 (as defined by the precedents of the Supreme
9 Court of the United States).

10 “(2) EXPRESSIVE ACTIVITIES AT AN INSTITU-
11 TION.—

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

22 “(B) RESTRICTIONS.—A covered public in-
23 stitution may not maintain or enforce time,
24 place, or manner restrictions on an expressive

1 activity in a generally accessible area of the in-
2 stitution’s campus unless the restriction—

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

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

7 “(iii) leaves open ample alternative
8 channels for communication; and

9 “(iv) provides for spontaneous assem-
10 bly and distribution of literature.

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

15 “(D) NONAPPLICATION TO SERVICE ACAD-
16 EMIES.—This subsection shall not apply to an
17 institution of higher education whose primary
18 purpose is the education of individuals for the
19 military services of the United States, or the
20 merchant marine.

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

22 “(1) IN GENERAL.—A covered public institution
23 may not consider, require, or discriminate on the
24 basis of a political test in the admission, appoint-
25 ment, hiring, employment, or promotion of any cov-

1 ered individual, or in the granting of tenure to any
2 covered individual.

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

5 “(A) to prohibit an institution of higher
6 education whose primary purpose is the edu-
7 cation of individuals for the military services of
8 the United States, or the merchant marine,
9 from requiring an applicant, student, or em-
10 ployee to take an oath to uphold the Constitu-
11 tion of the United States;

12 “(B) to prohibit an institution of higher
13 education from requiring a student, faculty
14 member, or employee to comply with Federal or
15 State antidiscrimination laws or from taking ac-
16 tion against a student, faculty member, or em-
17 ployee for violations of Federal or State anti-
18 discrimination laws, as applicable;

19 “(C) to prohibit an institution of higher
20 education from evaluating a prospective stu-
21 dent, an employee, or a prospective employee
22 based on their knowingly providing material
23 support or resources to an organization des-
24 ignated as a foreign terrorist organization pur-

1 suant to section 219 of the Immigration and
2 Nationality Act (8 U.S.C. 1189);

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

10 “(E) to apply to activities of registered
11 student organizations.

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

13 “(A) COVERED INDIVIDUAL.—The term
14 ‘covered individual’ means, with respect to an
15 institution of higher education that is a public
16 institution—

17 “(i) a prospective student who has
18 submitted an application to attend such in-
19 stitution;

20 “(ii) a student who attends such insti-
21 tution;

22 “(iii) a prospective employee who has
23 submitted an application to work at such
24 institution;

1 “(iv) an employee who works at such
2 institution;

3 “(v) a prospective faculty member
4 who has submitted an application to work
5 at such institution; and

6 “(vi) a faculty member who works at
7 such institution.

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

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

21 “(i) supports or opposes a specific
22 partisan or political set of beliefs;

23 “(ii) supports or opposes a particular
24 viewpoint on a social or political issue; or

1 “(iii) promotes the disparate treat-
2 ment of any individual or group of individ-
3 uals on the basis of race, color, religion or
4 national origin, including—

5 “(I) any initiative or formulation
6 of diversity, equity, and inclusion be-
7 yond upholding existing Federal law;
8 or

9 “(II) any theory or practice that
10 holds that systems or institutions up-
11 holding existing Federal law are rac-
12 ist, oppressive, or otherwise unjust.”.

13 **SEC. 206. ENFORCEMENT.**

14 (a) PROGRAM PARTICIPATION AGREEMENT.—Section
15 487(a) of the Higher Education Act of 1965 (20 U.S.C.
16 1094(a)) is amended by adding at the end the following:

17 “(30)(A) The institution will comply with all
18 the requirements of sections 112B.

19 “(B) An institution that fails to comply with
20 section 112B shall—

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

24 “(ii) in order to regain eligibility to partici-
25 pate in such programs, demonstrate compliance

1 with all requirements of such section for not
2 less than one award year after the award year
3 in which such institution became ineligible.”.

4 (b) CAUSE OF ACTION.—The Higher Education Act
5 of 1965 (20 U.S.C. 1001 et seq.), as amended by section
6 205 of this title, is further amended by inserting after sec-
7 tion 112D the following new section:

8 **“SEC. 112E. ENFORCEMENT.**

9 “(a) CAUSE OF ACTION.—

10 “(1) CIVIL ACTION.—After exhaustion of any
11 available appeals under section 112C(a), an ag-
12 grieved individual who, or an aggrieved organization
13 that, is harmed by the maintenance of a policy or
14 practice by a covered public institution that is in vio-
15 lation of a requirement described in section 112B,
16 112C, or 112D may bring a civil action in a Federal
17 court for appropriate relief.

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

20 “(A) a temporary or permanent injunction;

21 and

22 “(B) awarding a prevailing plaintiff—

23 “(i) compensatory damages;

24 “(ii) reasonable court costs; and

25 “(iii) reasonable attorney’s fees.

1 “(3) STATUTE OF LIMITATIONS.—A civil action
2 under this subsection may not be commenced later
3 than 2 years after the cause of action accrues. For
4 purposes of calculating the two-year limitation pe-
5 riod, each day that the violation of a requirement
6 described in section 112B, 112C, or 112D persists,
7 and each day that a policy in violation of a require-
8 ment described in section 112B, 112C, or 112D re-
9 mains in effect, shall constitute a new day that the
10 cause of action has accrued.

11 “(b) NONDEFAULT, FINAL JUDGMENT.—In the case
12 of a court’s nondefault, final judgment in a civil action
13 brought under subsection (a) that a covered public institu-
14 tion is in violation of a requirement described in section
15 112B, 112C, or 112D, such covered public institution
16 shall—

17 “(1) not later than 7 days after the date on
18 which the court makes such a nondefault, final judg-
19 ment, notify the Secretary of such judgment and
20 submit to the Secretary a copy of the nondefault,
21 final judgment; and

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

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

5 “(B) provides evidence to support such cer-
6 tification.

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

18 “(d) RESTORATION OF ELIGIBILITY.—

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

24 “(2) DETERMINATION BY THE SECRETARY.—
25 Not later than 90 days after a covered public insti-

1 tution submits a report under paragraph (1), the
2 Secretary shall review such report and make a deter-
3 mination with respect to whether such report con-
4 tained sufficient evidence to demonstrate that such
5 institution is no longer in violation of a requirement
6 described in section 112B, 112C, or 112D.

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

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

23 “(1) a compilation of—

24 “(A) the notifications of violation received
25 by the Secretary under subsection (b)(1) in the

1 year for which such report is being submitted;
2 and

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

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

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

20 “(g) DEFINITION.—In this section, the term ‘non-
21 default, final judgment’ means a final judgment by a court
22 for a civil action brought under subsection (a) that a cov-
23 ered public institution is in violation of a requirement de-
24 scribed in section 112B, 112C, or 112D that the covered

1 public institution chooses not to appeal or that is not sub-
2 ject to further appeal.”.

3 **SEC. 207. SENSE OF CONGRESS RELATING TO ACTS OF VIO-**
4 **LENCE ON CAMPUS.**

5 It is the sense of Congress that acts of violence com-
6 mitted on the campus of an institution of higher education
7 are not protected under the First Amendment to the Con-
8 stitution.

Passed the House of Representatives September 19,
2024.

Attest: KEVIN F. MCCUMBER,
Clerk.