

112TH CONGRESS
1ST SESSION

S. 540

To prevent harassment at institutions of higher education, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 10, 2011

Mr. LAUTENBERG (for himself, Mr. DURBIN, Mr. MERKLEY, Mr. SANDERS, Mr. WYDEN, Mr. MENENDEZ, Mr. AKAKA, Mrs. GILLIBRAND, and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To prevent harassment at institutions of higher education, 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 “Tyler Clementi Higher
5 Education Anti-Harassment Act of 2011”.

6 **SEC. 2. INSTITUTIONAL AND FINANCIAL ASSISTANCE IN-**
7 **FORMATION FOR STUDENTS.**

8 Section 485(f) of the Higher Education Act of 1965
9 (20 U.S.C. 1092(f)) is amended—

1 (1) by striking the subsection heading and in-
2 serting “DISCLOSURE OF CAMPUS SECURITY AND
3 HARASSMENT POLICY AND CAMPUS CRIME STATIS-
4 TICS.”;

5 (2) in paragraph (6)(A)—

6 (A) by redesignating clauses (ii) and (iii)
7 as clauses (vi) and (vii), respectively; and

8 (B) by inserting after clause (i) the fol-
9 lowing:

10 “(ii) The term ‘commercial mobile service’ has
11 the meaning given the term in section 332(d) of the
12 Communications Act of 1934 (47 U.S.C. 332(d)).

13 “(iii) The term ‘electronic communication’
14 means any transfer of signs, signals, writing, im-
15 ages, sounds, or data of any nature transmitted in
16 whole or in part by a wire, radio, electromagnetic,
17 photoelectronic, or photooptical system.

18 “(iv) The term ‘electronic messaging services’
19 has the meaning given the term in section 102 of the
20 Communications Assistance for Law Enforcement
21 Act (47 U.S.C. 1001).

22 “(v) The term ‘harassment’ means conduct, in-
23 cluding acts of verbal, nonverbal, or physical aggres-
24 sion, intimidation, or hostility (including conduct
25 that is undertaken in whole or in part, through the

1 use of electronic messaging services, commercial mo-
 2 bile services, electronic communications, or other
 3 technology) that—

4 “(I) is sufficiently severe, persistent, or
 5 pervasive so as to limit a student’s ability to
 6 participate in or benefit from a program or ac-
 7 tivity at an institution of higher education, or
 8 to create a hostile or abusive educational envi-
 9 ronment at an institution of higher education;
 10 and

11 “(II) is based on a student’s actual or per-
 12 ceived—

13 “(aa) race;

14 “(bb) color;

15 “(cc) national origin;

16 “(dd) sex;

17 “(ee) disability;

18 “(ff) sexual orientation;

19 “(gg) gender identity; or

20 “(hh) religion.”;

21 (3) by redesignating paragraphs (9) through
 22 (18) as paragraphs (10) through (19), respectively;
 23 and

24 (4) by inserting after paragraph (8) the fol-
 25 lowing:

1 “(9)(A) Each institution of higher education partici-
2 pating in any program under this title, other than a for-
3 eign institution of higher education, shall develop and dis-
4 tribute as part of the report described in paragraph (1)
5 a statement of policy regarding harassment, which shall
6 include—

7 “(i) a prohibition of harassment of enrolled stu-
8 dents by other students, faculty, and staff—

9 “(I) on campus;

10 “(II) in noncampus buildings or on non-
11 campus property;

12 “(III) on public property;

13 “(IV) through the use of electronic mail
14 addresses issued by the institution of higher
15 education;

16 “(V) through the use of computers and
17 communication networks, including any tele-
18 communications service, owned, operated, or
19 contracted for use by the institution of higher
20 education or its agents; or

21 “(VI) during an activity sponsored by the
22 institution of higher education or carried out
23 with the use of resources provided by the insti-
24 tution of higher education;

1 “(ii) a description of the institution’s programs
2 to combat harassment, which shall be aimed at the
3 prevention of harassment;

4 “(iii) a description of the procedures that a stu-
5 dent should follow if an incident of harassment oc-
6 curs; and

7 “(iv) a description of the procedures that the
8 institution will follow once an incident of harassment
9 has been reported.

10 “(B) The statement of policy described in subpara-
11 graph (A) shall address the following areas:

12 “(i) Procedures for timely institutional action in
13 cases of alleged harassment, which procedures shall
14 include a clear statement that the accuser and the
15 accused shall be informed of the outcome of any dis-
16 ciplinary proceedings in response to an allegation of
17 harassment.

18 “(ii) Possible sanctions to be imposed following
19 the final determination of an institutional discipli-
20 nary procedure regarding harassment.

21 “(iii) Notification of existing counseling, mental
22 health, or student services for victims or perpetra-
23 tors of harassment, both on campus and in the com-
24 munity.

1 “(iv) Identification of a designated employee or
2 office at the institution that will be responsible for
3 receiving and tracking each report of harassment by
4 a student, faculty, or staff member.”.

5 **SEC. 3. ANTI-HARASSMENT COMPETITIVE GRANT PRO-**
6 **GRAM.**

7 (a) DEFINITIONS.—In this section:

8 (1) ELIGIBLE ENTITY.—The term “eligible enti-
9 ty” means—

10 (A) an institution of higher education, in-
11 cluding an institution of higher education in a
12 collaborative partnership with a nonprofit orga-
13 nization; or

14 (B) a consortium of institutions of higher
15 education located in the same State.

16 (2) HARASSMENT.—The term “harassment”
17 has the meaning given the term in section
18 485(f)(6)(A) of the Higher Education Act of 1965
19 (20 U.S.C. 1092(f)(6)(A)), as amended by section 2
20 of this Act.

21 (3) SECRETARY.—The term “Secretary” means
22 the Secretary of Education.

23 (b) PROGRAM AUTHORIZED.—The Secretary is au-
24 thorized to award grants, on a competitive basis, to eligible

1 entities to enable eligible entities to carry out the author-
2 ized activities described in subsection (d).

3 (c) AMOUNT OF GRANT AWARDS.—The Secretary
4 shall ensure that each grant awarded under this section
5 is of sufficient amount to enable the grantee to meet the
6 purpose of this section.

7 (d) AUTHORIZED ACTIVITIES.—An eligible entity
8 that receives a grant under this section shall use the funds
9 made available through the grant to address one or more
10 of the types of harassment listed in section
11 485(f)(6)(A)(v)(II) of the Higher Education Act of 1965
12 (20 U.S.C. 1092(f)(6)(A)(v)(II)), as amended by section
13 2 of this Act, by initiating, expanding, or improving pro-
14 grams—

15 (1) to prevent the harassment of students at in-
16 stitutions of higher education;

17 (2) at institutions of higher education that pro-
18 vide counseling or redress services to students who
19 have suffered such harassment or students who have
20 been accused of subjecting other students to such
21 harassment; or

22 (3) that educate or train students, faculty, or
23 staff of institutions of higher education about ways
24 to prevent harassment or ways to address such har-
25 assment if it occurs.

1 (e) APPLICATION.—To be eligible to receive a grant
2 under this section, an eligible entity shall submit an appli-
3 cation to the Secretary at such time, in such manner, and
4 containing such information, as the Secretary may re-
5 quire.

6 (f) DURATION; RENEWAL.—A grant under this sec-
7 tion shall be awarded for a period of not more than 3
8 years. The Secretary may renew a grant under this section
9 for one additional period of not more than 2 years.

10 (g) AWARD CONSIDERATIONS.—In awarding a grant
11 under this section, the Secretary shall select eligible enti-
12 ties that demonstrate the greatest need for a grant and
13 the greatest potential benefit from receipt of a grant.

14 (h) REPORT AND EVALUATION.—

15 (1) EVALUATION AND REPORT TO THE SEC-
16 RETARY.—Not later than 6 months after the end of
17 the eligible entity's grant period, the eligible entity
18 shall—

19 (A) evaluate the effectiveness of the activi-
20 ties carried out with the use of funds awarded
21 pursuant to this section in decreasing harass-
22 ment and improving tolerance; and

23 (B) prepare and submit to the Secretary a
24 report on the results of the evaluation con-
25 ducted by the entity.

1 (2) EVALUATION AND REPORT TO CONGRESS.—

2 Not later than 12 months after the date of receipt
3 of the first report submitted pursuant to paragraph
4 (1) and annually thereafter, the Secretary shall pro-
5 vide to Congress a report that includes the following:

6 (A) The number and types of eligible enti-
7 ties receiving assistance under this section.

8 (B) The anti-harassment programs being
9 implemented with assistance under this section
10 and the costs of such programs.

11 (C) Any other information determined by
12 the Secretary to be useful in evaluating the
13 overall effectiveness of the program established
14 under this section in decreasing incidents of
15 harassment at institutions of higher education.

16 (3) BEST PRACTICES REPORT.—The Secretary
17 shall use the information provided under paragraph
18 (1) to publish a report of best practices for com-
19 bating harassment at institutions of higher edu-
20 cation. The report shall be made available to all in-
21 stitutions of higher education and other interested
22 parties.

23 (i) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to carry out this section
25 \$50,000,000 for each of fiscal years 2013 through 2018.

1 SEC. 4. EFFECT ON OTHER LAWS.

2 Nothing in this Act shall be construed to invalidate
3 or limit rights, remedies, procedures, or legal standards
4 available to victims of discrimination under any other Fed-
5 eral law or law of a State or political subdivision of a
6 State, including title VI of the Civil Rights Act of 1964
7 (42 U.S.C. 2000d et seq.), title IX of the Education
8 Amendments of 1972 (20 U.S.C. 1681 et seq.), section
9 504 or 505 of the Rehabilitation Act of 1973 (29 U.S.C.
10 794, 794a), or the Americans with Disabilities Act of 1990
11 (42 U.S.C. 12101 et seq.). The obligations imposed by this
12 Act are in addition to those imposed by title VI of the
13 Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title
14 IX of the Education Amendments of 1972 (20 U.S.C.
15 1681 et seq.), section 504 of the Rehabilitation Act of
16 1973 (29 U.S.C. 794), and the Americans with Disabil-
17 ities Act of 1990 (42 U.S.C. 12101 et seq.).

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