

SEPTEMBER 9, 2024

RULES COMMITTEE PRINT 118–49
TEXT OF H.R. 3724, END WOKE HIGHER
EDUCATION ACT

**[Showing the text of H.R. 3724 and H.R. 7683, as reported by
the Committee on Education and the Workforce, with modi-
fications]**

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.

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”.

1 **SEC. 102. PROHIBITION ON POLITICAL LITMUS TESTS IN**
2 **ACCREDITATION OF INSTITUTIONS OF HIGH-**
3 **ER EDUCATION.**

4 (a) OPERATING PROCEDURES REQUIRED.—Section
5 496(c) of the Higher Education Act of 1965 (20 U.S.C.
6 1099b(c)) is amended—

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

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

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

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

14 “(A) except as provided in subparagraph
15 (B)—

16 “(i) require, encourage, or coerce any
17 institution to—

18 “(I) support, oppose, or commit
19 to supporting or opposing—

20 “(aa) a specific partisan, po-
21 litical, or ideological viewpoint or
22 belief or set of such viewpoints or
23 beliefs; or

24 “(bb) a a specific viewpoint
25 or belief or set of viewpoints or

1 beliefs on social, cultural, or po-
2 litical issues; or

3 “(II) support or commit to sup-
4 porting the disparate treatment of any
5 individual or group of individuals on
6 the basis of any protected class under
7 Federal civil rights law, except as re-
8 quired by Federal law or a court
9 order; or

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

13 “(B) prohibit an institution—

14 “(i) from having a religious mission,
15 operating as a religious institution, or
16 being controlled by a religious organization
17 (in a manner described in paragraph (1),
18 (2), (3), (4), (5), or (6) of section
19 106.12(c) of title 34, Code of Federal Reg-
20 ulations (as in effect on the date of the en-
21 actment of this paragraph)), or from re-
22 quiring an applicant, student, employee, or
23 independent contractor (such as an adjunct
24 professor) of such an institution to—

1 “(I) provide or adhere to a state-
2 ment of faith; or

3 “(II) adhere to a code of conduct
4 consistent with the stated religious
5 mission of such institution or the reli-
6 gious tenets of such organization; or

7 “(ii) from requiring an applicant, stu-
8 dent, employee, or contractor to take an
9 oath to uphold the Constitution of the
10 United States; or

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

14 (b) LIMITATION ON SCOPE OF CRITERIA.—Section
15 496(g) of the Higher Education Act of 1965 (20 U.S.C.
16 1099b(g)) is amended to read as follows:

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

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

21 “(2) INSTITUTIONAL ELIGIBILITY.—An institu-
22 tion of higher education shall be eligible for partici-
23 pation in programs under this title if the institution
24 is in compliance with the standards of its accrediting
25 agency or association that assess the institution in

1 accordance with subsection (a)(5), regardless of any
2 additional standards adopted by the agency or asso-
3 ciation for purposes unrelated to participation in
4 programs under this title.”.

5 **SEC. 103. RULE OF CONSTRUCTION.**

6 Nothing in this title prevents religious accreditors
7 from holding and enforcing religious standards on institu-
8 tions they choose to accredit.

9 **TITLE II—RESPECTING THE**
10 **FIRST AMENDMENT ON CAMPUS**

11 **SEC. 201. SHORT TITLE.**

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

14 **SEC. 202. SENSE OF CONGRESS.**

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

18 **“SEC. 112A. SENSE OF CONGRESS; CONSTRUCTION; DEFINI-**
19 **TION.**

20 “(a) SENSE OF CONGRESS.—

21 “(1) ADOPTION OF CHICAGO PRINCIPLES.—The
22 Congress—

23 “(A) recognizes that free expression, open
24 inquiry, and the honest exchange of ideas are
25 fundamental to higher education;

1 “(B) acknowledges the profound contribu-
2 tion of the Chicago Principles to the freedom of
3 speech and expression; and

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

11 “(2) POLITICAL LITMUS TESTS.—The Con-
12 gress—

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

23 “(B) discourages any institution from re-
24 questing or requiring any such pledge or state-
25 ment from an applicant or faculty member, as

1 such actions are antithetical to the freedom of
2 speech protected by the First Amendment to
3 the Constitution.

4 “(b) CONSTRUCTION.—Nothing in sections 112B
5 through 112E shall be construed to infringe upon, or oth-
6 erwise impact, the protections provided to individuals
7 under titles VI and VII of the Civil Rights Act of 1964
8 (42 U.S.C. 2000d et seq.).

9 “(c) DEFINITION.—For purposes of sections 112C,
10 112D, and 112E, the term ‘covered public institution’
11 means an institution of higher education that is—

12 “(1) a public institution; and

13 “(2) participating in a program authorized
14 under title IV.”.

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

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

20 **“SEC. 112B. DISCLOSURE OF POLICIES RELATED TO FREE-**
21 **DOM OF SPEECH, ASSOCIATION, AND RELI-**
22 **GION.**

23 “(a) IN GENERAL.—No institution of higher edu-
24 cation shall be eligible to participate in any program under
25 title IV unless the institution certifies to the Secretary

1 that the institution has annually disclosed to current and
2 prospective students and faculty—

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

5 “(A) speech on campus, including policies
6 limiting—

7 “(i) the time when such speech may
8 occur;

9 “(ii) the place where such speech may
10 occur; or

11 “(iii) the manner in which such
12 speech may occur;

13 “(B) freedom of association, if applicable;
14 and

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

16 “(2) the right to a cause of action under section
17 112E, if the institution is a public institution.

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

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

24 The Higher Education Act of 1965 (20 U.S.C. 1001
25 et seq.), as amended by section 203 of this title, is further

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

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

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

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

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

13 “(i) FACULTY ADVISORS.—

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

23 “(II) ALTERNATIVE.—An institu-
24 tion described in subclause (I) shall
25 ensure that any policy or practice re-

1 lated to the recognition of a student
2 organization—

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

16 “(AA) waiver of such
17 requirement; or

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

22 “(bb) does not require a fac-
23 ulty or staff member of the insti-
24 tution assigned to serve as fac-
25 ulty advisor pursuant to item

1 (aa)(BB) to participate in, or
2 support, the organization other
3 than by performing the purely
4 administrative functions required
5 of a faculty advisor.

6 “(ii) APPEAL OPTIONS FOR RECOGNI-
7 TION.—

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

15 “(II) REQUIREMENTS.—The ap-
16 peal process shall—

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

1 “(bb) require the covered
2 public institution to provide writ-
3 ten notice to the students seeking
4 recognition of the appeal process
5 and the timeline for hearing and
6 resolving the appeal;

7 “(cc) allow the students
8 seeking recognition to obtain out-
9 side counsel to represent them
10 during the appeal; and

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

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

24 “(i) establish and make publicly avail-
25 able clear, objective, content- and view-

1 point-neutral, and exhaustive standards to
2 be used by the institution to determine—

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

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

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

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

24 “(iv) provide an appeals process by
25 which a recognized student organization

1 that has been denied all or a portion of an
2 allocation described in clause (ii) may ap-
3 peal to an institutional appellate entity for
4 reconsideration, which appeals process—

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

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

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

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

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

4 “(ii) ensure that a determination of
5 such an amount may not be based, in
6 whole or in part, on—

7 “(I) the content of expression or
8 viewpoint of the student or student
9 organization;

10 “(II) the content of expression of
11 the event or activity organized by the
12 student or student organization;

13 “(III) the content of expression
14 or viewpoint of an invited guest of the
15 student or student organization; or

16 “(IV) an anticipated reaction by
17 students or the public to the event.

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

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

2 “(A) RECOGNIZED STUDENT ORGANIZA-
3 TION.—The term ‘recognized student organiza-
4 tion’ means a student organization that has
5 been determined by a covered public institution
6 to meet institutional requirements to qualify for
7 certain privileges granted by the institution,
8 such as use of institutional venues, resources,
9 and funding.

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

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

1 of the religious beliefs, practices, speech, leadership stand-
2 ards, or standards of conduct of the religious student or-
3 ganization.

4 “(c) FREEDOM OF ASSOCIATION.—

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

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

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

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

22 “(2) NONRETALIATION AGAINST STUDENTS OF
23 SINGLE-SEX SOCIAL ORGANIZATIONS.—An institu-
24 tion of higher education that receives funds under

1 this Act, including through an institution’s partici-
2 pation in any program under title IV, shall not—

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

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

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

1 “(3) RULES OF CONSTRUCTION.—Nothing in
2 this subsection shall—

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

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

10 “(i) due to academic or nonacademic
11 misconduct; or

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

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

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

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

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

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

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

21 “(i) Expulsion, suspension, probation,
22 censure, condemnation, formal reprimand,
23 or any other disciplinary action, coercive
24 action, or sanction taken by an institution

1 of higher education or administrative unit
2 of such institution.

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

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

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

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

22 “(vi) An act to deny any certification,
23 endorsement, or letter of recommendation
24 that may be required by a student’s cur-
25 rent or future employer, a government

1 agency, a licensing board, an institution of
2 higher education, a scholarship program,
3 or a graduate fellowship to which the stu-
4 dent applies or seeks to apply.

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

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

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

18 “(x) An action to interject an institu-
19 tion’s own criteria into the membership
20 practices of the organization in any man-
21 ner that conflicts with the rights of such
22 organization under title IX of the Edu-
23 cation Amendments of 1972 (20 U.S.C.
24 1681 et seq.) or this subsection.

1 “(xi) An action to impose additional
2 requirements on advisors serving a single-
3 sex social organization that are not im-
4 posed on all other student organizations.

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

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

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

22 “(d) CONSTRUCTION.—Nothing in this section shall
23 be construed to prohibit an institution of higher education
24 from taking any adverse action (such as denying or revok-
25 ing recognition, funding, use of institutional venues or re-

1 sources, or other privileges granted by the institution)
2 against a student organization based on the student orga-
3 nization having knowingly provided material support or re-
4 sources to an organization designated as a foreign ter-
5 rorist organization pursuant to section 219 of the Immi-
6 gration and Nationality Act (8 U.S.C. 1189).”.

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

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

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

13 “(a) IN GENERAL.—A covered public institution
14 shall—

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

18 “(A) a written statement that—

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

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

1 “(iii) explains students’ protections
2 under title VI of the Civil Rights Act of
3 1964 (42 U.S.C. 2000d et seq.) and the
4 procedures for filing a discrimination claim
5 with the Office for Civil Rights of the De-
6 partment of Education; and

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

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

17 “(2) post on the publicly accessible website of
18 the institution the statement described in paragraph
19 (1)(A).

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

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

24 “(A) includes—

1 “(i) peacefully assembling, protesting,
2 speaking, or listening;

3 “(ii) distributing literature;

4 “(iii) carrying a sign;

5 “(iv) circulating a petition; or

6 “(v) other expressive activities guar-
7 anteed under the First Amendment to the
8 Constitution;

9 “(B) applies equally to religious expression
10 as it does to nonreligious expression; and

11 “(C) does not include unprotected speech
12 (as defined by the precedents of the Supreme
13 Court of the United States).

14 “(2) EXPRESSIVE ACTIVITIES AT AN INSTITU-
15 TION.—

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

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

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

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

10 “(iii) leaves open ample alternative
11 channels for communication; and

12 “(iv) provides for spontaneous assem-
13 bly and distribution of literature.

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

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

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

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

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

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

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

23 “(C) to prohibit an institution of higher
24 education from evaluating a prospective stu-
25 dent, an employee, or a prospective employee

1 based on their knowingly providing material
2 support or resources to an organization des-
3 ignated as a foreign terrorist organization pur-
4 suant to section 219 of the Immigration and
5 Nationality Act (8 U.S.C. 1189);

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

13 “(E) to apply to activities of registered
14 student organizations.

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

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

20 “(i) a prospective student who has
21 submitted an application to attend such in-
22 stitution;

23 “(ii) a student who attends such insti-
24 tution;

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

4 “(iv) an employee who works at such
5 institution;

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

9 “(vi) a faculty member who works at
10 such institution.

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

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

24 “(i) supports or opposes a specific
25 partisan or political set of beliefs;

1 “(ii) supports or opposes a particular
2 viewpoint on a social or political issue; or
3 “(iii) promotes the disparate treat-
4 ment of any individual or group of individ-
5 uals on the basis of race, color, or national
6 origin, including—

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

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

15 **SEC. 206. ENFORCEMENT.**

16 (a) PROGRAM PARTICIPATION AGREEMENT.—Section
17 487(a) of the Higher Education Act of 1965 (20 U.S.C.
18 1094(a)) is amended by adding at the end the following:

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

21 “(B) An institution that fails to comply with
22 section 112B shall—

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

1 “(ii) in order to regain eligibility to partici-
2 pate in such programs, demonstrate compliance
3 with all requirements of such section for not
4 less than one award year after the award year
5 in which such institution became ineligible.”.

6 (b) CAUSE OF ACTION.—The Higher Education Act
7 of 1965 (20 U.S.C. 1001 et seq.), as amended by section
8 205 of this title, is further amended by inserting after sec-
9 tion 112D the following new section:

10 **“SEC. 112E. ENFORCEMENT.**

11 “(a) CAUSE OF ACTION.—

12 “(1) CIVIL ACTION.—After exhaustion of any
13 available appeals under section 112C(a), an ag-
14 grievied individual who, or an aggrieved organization
15 that, is harmed by the maintenance of a policy or
16 practice by a covered public institution that is in vio-
17 lation of a requirement described in section 112B,
18 112C, or 112D may bring a civil action in a Federal
19 court for appropriate relief.

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

22 “(A) a temporary or permanent injunction;
23 and

24 “(B) awarding a prevailing plaintiff—

25 “(i) compensatory damages;

1 “(ii) reasonable court costs; and

2 “(iii) reasonable attorney’s fees.

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

13 “(b) NONDEFAULT, FINAL JUDGMENT.—In the case
14 of a court’s nondefault, final judgment in a civil action
15 brought under subsection (a) that a covered public institu-
16 tion is in violation of a requirement described in section
17 112B, 112C, or 112D, such covered public institution
18 shall—

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

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

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

8 “(B) provides evidence to support such cer-
9 tification.

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

21 “(d) RESTORATION OF ELIGIBILITY.—

22 “(1) IN GENERAL.—A covered public institution
23 that loses eligibility under subsection (c) to partici-
24 pate in a program authorized under title IV may

1 seek to restore such eligibility by submitting to the
2 Secretary the report described in subsection (b)(2).

3 “(2) DETERMINATION BY THE SECRETARY.—

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

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

20 “(e) REPORT TO CONGRESS.—Not later than 1 year
21 after the date of the enactment of this section, and on
22 an annual basis thereafter, the Secretary shall submit to
23 the Committee on Education and the Workforce of the
24 House of Representatives and the Senate Committee on

1 Health, Education, Labor, and Pensions a report that in-
2 cludes—

3 “(1) a compilation of—

4 “(A) the notifications of violation received
5 by the Secretary under subsection (b)(1) in the
6 year for which such report is being submitted;
7 and

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

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

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

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

