

118TH CONGRESS  
1ST SESSION

# H. R. 1701

To prohibit discrimination in higher education against certain noncitizen students on the basis of immigration status, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 22, 2023

Mr. GALLEGO (for himself, Mr. STANTON, Mr. ESPALLAT, Mr. SOTO, Ms. BARRAGÁN, and Ms. GARCIA of Texas) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To prohibit discrimination in higher education against certain noncitizen students on the basis of immigration status, 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 “Higher Education  
5 Dream Act of 2023”.

1 **SEC. 2. HIGHER EDUCATION FOR DREAMER STUDENTS.**

2 Part B of title I of the Higher Education Act of 1965  
3 (20 U.S.C. 1011 et seq.) is amended by adding at the end  
4 the following:

5 **“SEC. 124. NONDISCRIMINATION AGAINST DREAMER STU-**  
6 **DENTS IN HIGHER EDUCATION.**

7 “(a) **ELIGIBILITY.**—An institution of higher edu-  
8 cation that receives Federal funds or financial assistance  
9 under any Federal program shall not prohibit a Dreamer  
10 student from applying for admission, nor shall it prohibit  
11 a Dreamer student who is accepted to that institution  
12 from enrolling.

13 “(b) **ADMISSIONS.**—An institution of higher edu-  
14 cation that receives Federal funds or financial assistance  
15 under any Federal program shall not discriminate against  
16 or penalize in the admissions process a Dreamer student  
17 who is otherwise qualified for admission to the institution,  
18 on the basis of that individual’s immigration status, nor  
19 shall such an institution differentiate in the admissions  
20 process on the basis of residency between a United States  
21 citizen applicant and a Dreamer student applying from the  
22 same State.

23 “(c) **TUITION RATE.**—An institution of higher edu-  
24 cation that receives Federal funds or financial assistance  
25 under any Federal program shall not charge a greater rate  
26 of tuition than the rate charged for residents of the State

1 in which the institution is located to a Dreamer student  
2 who, but for such individual's immigration status, other-  
3 wise qualifies as a resident of the State in which the insti-  
4 tution is located.

5 “(d) REMEDIES.—An institution of higher education  
6 that violates subsection (a), (b), or (c) shall be subject to  
7 the remedies described in sections 454 and 455 of the  
8 General Education Provisions Act (8 U.S.C. 1234e,  
9 1234d).

10 “(e) CONFIDENTIALITY OF INFORMATION.—

11 “(1) PROHIBITION.—No officer or employee of  
12 the United States, of a State, or of an institution of  
13 higher education that receives Federal funds or fi-  
14 nancial assistance under any Federal program to  
15 which a Dreamer student applies for admission or  
16 enrolls, may—

17 “(A) use the information furnished by the  
18 Dreamer student to arrest, detain, or initiate  
19 removal proceedings against any person identi-  
20 fied in that information;

21 “(B) make any publication whereby the in-  
22 formation furnished by any particular Dreamer  
23 student can be identified; or

24 “(C) permit anyone other than an officer  
25 or employee of the Federal Government or the

1 institution of higher education to which a  
2 Dreamer student applies or enrolls, to examine  
3 any information provided by a Dreamer student  
4 relating to that individual’s immigration status  
5 or qualifications to be a Dreamer student.

6 “(2) PENALTY.—Whoever knowingly uses, pub-  
7 lishes, or permits information to be examined in vio-  
8 lation of this subsection shall be fined not more than  
9 \$50,000.

10 “(f) DEFINITION OF DREAMER STUDENT.—In this  
11 section, the term ‘Dreamer student’ means an individual  
12 who—

13 “(1) is not a national of the United States (as  
14 defined in section 101(a)(21) of the Immigration  
15 and Nationality Act (8 U.S.C. 1101(21)));

16 “(2) maintains a residence in the United States  
17 (as defined in section 101(a)(33) of such Act (8  
18 U.S.C. 1101(33)));

19 “(3)(A) is not authorized to be temporarily in  
20 the United States under subparagraph (F), (J), (M),  
21 or (Q) of section 101(a)(15) of such Act (8 U.S.C.  
22 1101(a)(15)); or

23 “(B) does not have an application pending for  
24 the purpose of seeking such authorization;

1           “(4)(A) possesses a valid document or docu-  
2           ments demonstrating that the individual is in a law-  
3           ful immigration status in the United States (exclud-  
4           ing a nonimmigrant status under subparagraph (F),  
5           (J), (M), or (Q) of section 101(a)(15) of such Act  
6           (8 U.S.C. 1101(a)(15)));

7           “(B) possesses a valid document or documents  
8           demonstrating that the individual is lawfully present  
9           in the United States (excluding lawful presence, or  
10          a pending application, under any of such subpara-  
11          graphs);

12          “(C) possesses an expired document or docu-  
13          ments demonstrating that the individual, in the past,  
14          was granted—

15                 “(i) deferred action pursuant to the De-  
16                 ferred Action for Childhood Arrivals policy an-  
17                 nounced by the Secretary of Homeland Security  
18                 on June 15, 2012;

19                 “(ii) temporary protected status under sec-  
20                 tion 244 of the Immigration and Nationality  
21                 Act (8 U.S.C. 1254a);

22                 “(iii) Deferred Enforced Departure; or

23                 “(iv) status as the son or daughter of an  
24                 alien admitted as a nonimmigrant under sub-  
25                 paragraph (E)(i), (E)(ii), (H)(i)(b), or (L) of

1 section 101(a)(15) of such Act (8 U.S.C.  
2 1101(a)(15)); or

3 “(D) would have been eligible for deferred ac-  
4 tion pursuant to the Deferred Action for Childhood  
5 Arrivals policy announced by the Secretary of Home-  
6 land Security on June 15, 2012, if not for the court  
7 orders of the United States Court of Appeals for the  
8 Fifth Circuit in *Texas et al. v. United States of*  
9 *America et al.*, No. 21–40680 (Oct. 5, 2022) and  
10 the United States District Court for the Southern  
11 District of Texas in *Texas, et al., v. United States*  
12 *of America, et al.*, 1:18–CV–00068, (July 16, 2021),  
13 and has never engaged in conduct that would render  
14 the individual ineligible for that relief;

15 “(5) was 18 years of age or younger on the  
16 date on which the individual initially entered the  
17 United States;

18 “(6) has provided a list of each secondary  
19 school that the student attended in the United  
20 States; and

21 “(7)(A) has earned a high school diploma, the  
22 recognized equivalent of such diploma from a sec-  
23 ondary school, or a high school equivalency diploma  
24 in the United States or is scheduled to complete the

1 requirements for such a diploma or equivalent before  
2 the next academic year begins;

3 “(B) has acquired a degree from an institution  
4 of higher education or is enrolled in a program for  
5 a baccalaureate degree or higher degree at an insti-  
6 tution of higher education in the United States; or

7 “(C) has served in the uniformed services, as  
8 defined in section 101 of title 10, United States  
9 Code, for not less than 4 years and, if discharged,  
10 received an honorable discharge.”.

11 **SEC. 3. FEDERAL AID ELIGIBILITY.**

12 Section 484(a)(5) of the Higher Education Act of  
13 1965 (20 U.S.C. 1091(a)(5)) is amended by inserting “a  
14 Dreamer student (as defined in section 124(f)),” after  
15 “permanent resident of the United States,”.

16 **SEC. 4. REPEAL OF PROHIBITION.**

17 Section 505 of the Illegal Immigration Reform and  
18 Immigrant Responsibility Act of 1996 (8 U.S.C. 1623) is  
19 repealed.

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