

117TH CONGRESS
2D SESSION

H. R. 8945

To amend the Higher Education Act of 1965 to prohibit the use of political tests in the selection, hiring, or promotion of students or faculty at institutions of higher education, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 2022

Ms. STEFANIK (for herself, Mr. KELLER, and Mr. GROTHMAN) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend the Higher Education Act of 1965 to prohibit the use of political tests in the selection, hiring, or promotion of students or faculty 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 “Restoring Academic
5 Freedom on Campus Act of 2022”.

1 **SEC. 2. AMENDMENTS TO THE HIGHER EDUCATION ACT OF**
 2 **1965.**

3 (a) PROHIBITION ON USE OF POLITICAL TESTS.—
 4 Part B of title I of the Higher Education Act of 1965
 5 (20 U.S.C. 1011 et seq.) is amended by adding at the end
 6 the following:

7 **“SEC. 124. PROHIBITION ON USE OF POLITICAL TESTS.**

8 “(a) PROHIBITION ON POLITICAL TESTS.—An insti-
 9 tution of higher education that receives funds under this
 10 Act, including through participation in a program author-
 11 ized under title IV, may not consider, require, or discrimi-
 12 nate on the basis of a political test in the admission, ap-
 13 pointment, or promotion of, or granting of tenure to, any
 14 covered individual.

15 “(b) ENFORCEMENT.—

16 “(1) CAUSE OF ACTION.—

17 “(A) AUTHORIZATION.—A covered indi-
 18 vidual that applies to, attends, or works at an
 19 institution of higher education claiming that the
 20 institution maintains a policy or practice that is
 21 a political test in violation of the prohibition de-
 22 scribed in subsection (a) may bring an action in
 23 a Federal court of competent jurisdiction to—

24 “(i) enjoin a violation of the prohibi-
 25 tion described in subsection (a); or

1 “(ii) recover compensatory damages,
2 reasonable court costs, or reasonable attor-
3 ney fees.

4 “(B) ACTIONS.—In an action brought
5 under this paragraph, if the court finds a viola-
6 tion of the prohibition described in subsection
7 (a), the court may—

8 “(i) enjoin the violation; or

9 “(ii) award a prevailing plaintiff—

10 “(I) compensatory damages;

11 “(II) reasonable court costs; or

12 “(III) reasonable attorney fees.

13 “(C) WAIVER OF IMMUNITY.—A State
14 shall not be immune under the Eleventh
15 Amendment to the Constitution of the United
16 States from an action under this paragraph.

17 “(D) STATUTE OF LIMITATIONS.—An ac-
18 tion under this paragraph may not be brought
19 later than 2 years after the date of the viola-
20 tion.

21 “(2) IN GENERAL.—If a court finds under
22 paragraph (1) that an institution of higher edu-
23 cation maintains a policy or practice that is a polit-
24 ical test in violation of the prohibition described in
25 subsection (a), such institution shall—

1 “(A) not later than 7 days after the date
2 on which the court makes such finding, notify
3 the Secretary of such finding; and

4 “(B) not later than 30 days after the date
5 on which the court makes such finding, submit
6 to the Secretary a report that—

7 “(i) certifies that the policy or prac-
8 tice that is a political test in violation of
9 the prohibition described in subsection (a)
10 is no longer in use; and

11 “(ii) provides evidence to support such
12 certification.

13 “(3) REVOCATION OF ELIGIBILITY.—In the
14 case of an institution that does not submit the re-
15 port required under paragraph (2)(B), the Secretary
16 shall revoke, beginning the academic year imme-
17 diately following the conclusion of the academic year
18 in which the institution is found by a court to be in
19 violation of the prohibition described in subsection
20 (a), the eligibility of such institution to receive funds
21 under this Act, including through participation in a
22 program authorized under title IV.

23 “(4) RESTORATION OF ELIGIBILITY.—

24 “(A) An institution of higher education
25 that loses eligibility under paragraph (3) to re-

1 ceive funds under this Act may seek to restore
2 such eligibility by submitting to the Secretary
3 the report described in paragraph (2)(B).

4 “(B) Not later than 90 days after an insti-
5 tution submits a report under subparagraph
6 (A), the Secretary shall review such report and
7 make a determination with respect to whether
8 such report contained sufficient evidence to
9 demonstrate that such institution is no longer
10 in violation of the prohibition described in sub-
11 section (a).

12 “(C) If the Secretary makes a determina-
13 tion under subparagraph (B) that the institu-
14 tion is no longer in violation of the prohibition
15 described in subsection (a), the Secretary shall
16 restore, at the beginning of the academic year
17 immediately following the conclusion of the aca-
18 demic year in which such determination is
19 made, the eligibility of such institution to re-
20 ceive funds under this Act, including through
21 participation in a program authorized under
22 title IV.

23 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
24 tion shall be construed to—

1 “(1) prohibit an institution of higher education
2 from requiring an applicant, student, or employee to
3 take an oath to uphold the Constitution of the
4 United States;

5 “(2) prohibit an institution of higher education
6 which is controlled by a religious organization from
7 requiring an applicant, student, or employee to—

8 “(A) provide a statement of faith; or

9 “(B) adhere to a code of conduct con-
10 sistent with the stated religious mission of such
11 institution or the religious tenets of such orga-
12 nization; or

13 “(3) infringe upon or otherwise impact the pro-
14 tections of an institution of higher education under
15 title VII of the Civil Rights Act of 1964 (42 U.S.C.
16 2000e et seq.) and title IX of the Education Amend-
17 ments of 1972 (20 U.S.C. 1681 et seq.).

18 “(d) REPORT TO CONGRESS.—Not later than 1 year
19 after the date of the enactment of the Restoring Academic
20 Freedom on Campus Act of 2022 and on an annual basis
21 thereafter, the Secretary shall submit to the Committee
22 on Education and Labor of the House of Representatives
23 and the Senate Committee on Health, Education, Labor,
24 and Pensions a report that includes—

25 “(1) a compilation of—

1 “(A) the notifications of violation received
2 by the Secretary under subsection (b)(2)(A) in
3 the year for which such report is being sub-
4 mitted; and

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

8 “(2) any action taken by the Secretary revoke
9 or restore eligibility under paragraphs (3) and (4) of
10 subsection (b) for such year.

11 “(e) DEFINITIONS.—In this section:

12 “(1) COVERED INDIVIDUAL.—The term ‘cov-
13 ered individual’ means, with respect to an institution
14 of higher education—

15 “(A) a prospective student who has sub-
16 mitted an application to attend such institution;

17 “(B) a student who attends such institu-
18 tion;

19 “(C) a prospective employee who has sub-
20 mitted an application to work at such institu-
21 tion;

22 “(D) an employee who works at such insti-
23 tution;

1 “(E) a prospective faculty member who has
2 submitted an application to work at such insti-
3 tution; and

4 “(F) a faculty member who works at such
5 institution.

6 “(2) POLITICAL TEST.—The term ‘political test’
7 means a method of compelling or soliciting an appli-
8 cant for enrollment or employment, student, or em-
9 ployee of an institution of higher education to iden-
10 tify commitment to or make a statement of personal
11 belief in support of any ideology or movement that—

12 “(A) promotes a specific partisan or polit-
13 ical set of beliefs;

14 “(B) promotes a particular viewpoint on
15 an issue of public controversy; or

16 “(C) promotes the disparate treatment of
17 any individual or group of individuals on the
18 basis of race or ethnicity, including—

19 “(i) any initiative or formulation of
20 diversity, equity, and inclusion beyond up-
21 holding existing Federal law; or

22 “(ii) any theory or practice that holds
23 that systems or institutions upholding ex-
24 isting Federal law are racist, oppressive, or
25 otherwise unjust.”.

1 (b) PROGRAM PARTICIPATION AGREEMENT.—Section
2 487(a) of the Higher Education Act of 1965 (20 U.S.C.
3 1094(a)) is amended by adding at the end the following:

4 “(30) The institution will comply with the re-
5 quirements of section 124.”.

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