

118TH CONGRESS
2D SESSION

S. 4106

To affirm and protect the First Amendment rights of students and student organizations at public institutions of higher education.

IN THE SENATE OF THE UNITED STATES

APRIL 10, 2024

Ms. ERNST (for herself, Mr. GRASSLEY, Mr. BUDD, Mrs. BLACKBURN, Mr. TILLIS, Mr. BRAUN, and Mr. SCOTT of Florida) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To affirm and protect the First Amendment rights of students and student organizations at public institutions of higher education.

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 “Students Bill of Rights
5 Act of 2024”.

6 **SEC. 2. STUDENTS BILL OF RIGHTS.**

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

1 **“SEC. 112A. STUDENTS BILL OF RIGHTS TO FURTHER PRO-**
2 **TECT SPEECH AND ASSOCIATION.**

3 “(a) PROTECTED RIGHTS.—A covered public institu-
4 tion that receives funds under this Act, including through
5 participation in a program authorized under title IV, shall
6 comply with the following requirements:

7 “(1) RECOGNIZED STUDENT ORGANIZATIONS.—
8 A covered public institution that has recognized stu-
9 dent organizations shall comply with the following
10 requirements:

11 “(A) FACULTY ADVISORS.—A covered pub-
12 lic institution may not deny recognition to a
13 student organization solely because the organi-
14 zation is unable to obtain a faculty advisor or
15 sponsor, provided that the organization meets
16 each of the other institutional requirements for
17 such recognition. The institution shall ensure
18 that any policy or practice related to the rec-
19 ognition of a student organization—

20 “(i) does not require a faculty or staff
21 member of the institution to serve as fac-
22 ulty advisor or to otherwise participate in,
23 support, or sponsor the organization; or

24 “(ii) if the institution does have a re-
25 quirement that a faculty or staff member
26 serve as described in clause (i) as a condi-

1 tion for recognition of the student organi-
2 zation, and an organization that meets
3 each of the other institutional require-
4 ments for such recognition is unable to se-
5 cure such a faculty or staff member, pro-
6 vides for an alternative to such require-
7 ment, which may include waiver of such re-
8 quirement or the institution assigning a
9 faculty or staff member to such organiza-
10 tion.

11 “(B) AFFILIATION.—A covered public in-
12 stitution may not deny recognition to a student
13 organization solely because of the organization’s
14 affiliation with, or status as a chapter of, a na-
15 tional or other organization.

16 “(C) APPEAL OPTIONS FOR RECOGNI-
17 TION.—A covered public institution shall pro-
18 vide an appeals process by which a student or-
19 ganization that has been denied recognition by
20 the institution may appeal to an institutional
21 appellate entity for reconsideration. The institu-
22 tion shall ensure that such appellate entity did
23 not participate in any prior proceeding related
24 to the denial of recognition to such organiza-
25 tion.

1 “(2) DISTRIBUTION OF FUNDS TO STUDENT
2 ORGANIZATIONS.—A covered public institution that
3 collects a mandatory fee from students for the costs
4 of student activities and events and provides funds
5 generated from such student fees to one or more
6 recognized student organizations of the institution
7 shall—

8 “(A) establish and make publicly available
9 clear, objective, content- and viewpoint-neutral,
10 and exhaustive standards to be used by the in-
11 stitution to determine—

12 “(i) the total amount of funds made
13 available for allocations to the recognized
14 student organizations; and

15 “(ii) the allocations of such total
16 amount to individual recognized student
17 organizations;

18 “(B) ensure that allocations are made to
19 the recognized student organizations in accord-
20 ance with the standards established pursuant to
21 subparagraph (A);

22 “(C) upon the request of a recognized stu-
23 dent organization that has been denied all or a
24 portion of an allocation described in subpara-
25 graph (B), provide to the organization, in writ-

1 ing (which may include electronic communica-
2 tion) and in a timely manner, the specific rea-
3 sons for such denial and information of the ap-
4 peals process described in subparagraph (D);

5 “(D) provide an appeals process by which
6 a recognized student organization that has been
7 denied all or a portion of an allocation de-
8 scribed in subparagraph (B) may appeal to an
9 institutional appellate entity for reconsideration,
10 and the institution shall ensure that such appel-
11 late entity did not participate in any prior pro-
12 ceeding related to such allocation; and

13 “(E) have in place policies and procedures
14 to disqualify an individual or entity from par-
15 ticipating in a determination described in sub-
16 paragraph (A) or (B), or an appeal described in
17 subparagraph (D), if such individual or entity
18 has failed to apply the standards for determina-
19 tions established by the institution pursuant to
20 this paragraph.

21 “(3) ASSESSMENT OF SECURITY FEES FOR
22 EVENTS.—A covered public institution shall establish
23 and make publicly available clear, objective, content-
24 and viewpoint-neutral, and exhaustive standards to
25 be used by the institution to—

1 “(A) determine the amount of any security
2 fee for an event or activity organized by a stu-
3 dent or student organization; and

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

7 “(i) the content of expression or view-
8 point of the student or student organiza-
9 tion;

10 “(ii) the purpose or content of expres-
11 sion of the event or activity organized by
12 the student or student organization;

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

16 “(iv) an anticipated reaction by stu-
17 dents or the public to the event or activity
18 due to the purpose, content of expression,
19 or viewpoint expressed at the event or ac-
20 tivity by the student, student organization,
21 or an invited guest.

22 “(4) PROTECTIONS FOR INVITED GUESTS AND
23 SPEAKERS.—A covered public institution shall estab-
24 lish and make publicly available clear, objective,
25 content- and viewpoint-neutral, and exhaustive

1 standards to be used by the institution related to the
2 safety and protection of speakers and guests who are
3 invited to the institution by a student or student or-
4 ganization.

5 “(b) ENFORCEMENT.—

6 “(1) CAUSE OF ACTION.—

7 “(A) CIVIL ACTION.—Whoever is harmed
8 by a covered public institution by the mainte-
9 nance of a policy or practice of the institution
10 that is in violation of a requirement described
11 in subsection (a) may bring a civil action in a
12 Federal court for appropriate relief.

13 “(B) APPROPRIATE RELIEF.—For the pur-
14 poses of this paragraph, appropriate relief in-
15 cludes—

16 “(i) a temporary or permanent injunc-
17 tion; and

18 “(ii) awarding a prevailing plaintiff—

19 “(I) compensatory damages;

20 “(II) reasonable court costs; and

21 “(III) reasonable attorney fees.

22 “(C) STATUTE OF LIMITATIONS.—A civil
23 action under this paragraph may not be com-
24 menced later than 2 years after the cause of ac-
25 tion accrues.

1 “(2) IN GENERAL.—In the case of a court’s
2 non-default, final judgment in a civil action brought
3 under paragraph (1) that a covered public institu-
4 tion is in violation of a requirement described in
5 subsection (a), such covered public institution
6 shall—

7 “(A) not later than 7 days after the date
8 on which the court makes such a non-default,
9 final judgment, notify the Secretary of such
10 judgment and submit to the Secretary a copy of
11 the non-default, final judgment; and

12 “(B) not later than 30 days after the date
13 on which the court makes such a non-default,
14 final judgment, submit to the Secretary a re-
15 port that—

16 “(i) certifies that the standard, policy,
17 practice, or procedure that is in violation
18 of the requirement described in subsection
19 (a) is no longer in use; and

20 “(ii) provides evidence to support such
21 certification.

22 “(3) REVOCATION OF ELIGIBILITY.—In the
23 case of a covered public institution that does not no-
24 tify the Secretary as required under paragraph
25 (2)(A) or submit the report required under para-

1 graph (2)(B), the Secretary shall revoke the eligi-
2 bility of such institution to receive funds under this
3 Act, including through participation in a program
4 authorized under title IV, for each award year fol-
5 lowing the conclusion of the award year in which a
6 court made a non-default, final judgment in a civil
7 action brought under paragraph (1) that the institu-
8 tion is in violation of a requirement described in
9 subsection (a).

10 “(4) RESTORATION OF ELIGIBILITY.—

11 “(A) IN GENERAL.—A covered public insti-
12 tution that loses eligibility under paragraph (3)
13 to receive funds under this Act may seek to re-
14 store such eligibility by submitting to the Sec-
15 retary the report described in paragraph (2)(B).

16 “(B) DETERMINATION BY THE SEC-
17 RETARY.—Not later than 90 days after a cov-
18 ered public institution submits a report under
19 subparagraph (A), the Secretary shall review
20 such report and make a determination with re-
21 spect to whether such report contained suffi-
22 cient evidence to demonstrate that such institu-
23 tion is no longer in violation of a requirement
24 described in subsection (a).

1 “(C) RESTORATION.—If the Secretary
2 makes a determination under subparagraph (B)
3 that the covered public institution is no longer
4 in violation of a requirement described in sub-
5 section (a), the Secretary shall restore the eligi-
6 bility of such institution to receive funds under
7 this Act, including through participation in a
8 program authorized under title IV, for each
9 award year following the conclusion of the
10 award year in which such determination is
11 made.

12 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
13 tion shall be construed to infringe upon or otherwise im-
14 pact the protections of an institution of higher education
15 under title VII of the Civil Rights Act of 1964 (42 U.S.C.
16 2000e et seq.) and title IX of the Education Amendments
17 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 Students Bill of
20 Rights Act of 2024 and on an annual basis thereafter,
21 the Secretary shall submit to the Committee on Education
22 and the Workforce of the House of Representatives and
23 the Committee on Health, Education, Labor, and Pen-
24 sions of the Senate 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 PUBLIC INSTITUTION.—The
13 term ‘covered public institution’ means an institu-
14 tion of higher education, as defined in section 101,
15 that is a public institution.

16 “(2) CONTENT- AND VIEWPOINT-NEUTRAL.—
17 The term ‘content- and viewpoint-neutral’, when
18 used with respect to a policy, practice, determina-
19 tion, fee assessment, or allocation applied to a stu-
20 dent organization, means a policy, practice, deter-
21 mination, fee assessment, or allocation that does not
22 take into consideration any purpose of, or viewpoints
23 held or expressed by, such organization.

24 “(3) NON-DEFAULT, FINAL JUDGMENT.—The
25 term ‘non-default, final judgment’ means a final

1 judgment by a court for a civil action brought under
2 subsection (b) that a covered public institution is in
3 violation of a requirement described in subsection
4 (a) that the covered public institution chooses not to
5 appeal or that is not subject to further appeal.

6 “(4) **RECOGNIZED STUDENT ORGANIZATION.**—
7 The term ‘recognized student organization’ means a
8 student organization that has been determined by a
9 covered public institution to meet institutional re-
10 quirements to qualify for certain privileges granted
11 by the institution, such as use of institutional
12 venues, resources, and funding.

13 “(5) **SECURITY FEE.**—The term ‘security fee’
14 means a fee charged to a student or student organi-
15 zation for an event or activity organized by the stu-
16 dent or student organization on the campus of the
17 institution that is intended to cover the costs in-
18 curred by the institution for additional security
19 measures needed to ensure the security of the insti-
20 tution, students, faculty, staff, or surrounding com-
21 munity as a result of such event or activity.”.

22 **SEC. 3. PROGRAM PARTICIPATION AGREEMENT.**

23 Section 487(a) of the Higher Education Act of 1965
24 (20 U.S.C. 1094(a)) is amended by adding at the end the
25 following:

1 “(30) In the case of an institution that is a cov-
2 ered public institution under section 112A, the insti-
3 tution will comply with the requirements of such sec-
4 tion.”.

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