

116TH CONGRESS
1ST SESSION

H. R. 3422

To amend the Higher Education Act of 1965 to clarify competency-based education.

IN THE HOUSE OF REPRESENTATIVES

JUNE 21, 2019

Mr. GROTHMAN (for himself, Mr. STEIL, and Mr. GALLAGHER) 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 clarify competency-based 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 “Competency-Based
5 Education Act of 2019” or the “CBE Act of 2019”.

6 **SEC. 2. REGULATORY RELIEF.**

7 (a) REPEAL.—

8 (1) DEFINITION OF CREDIT HOUR.—The defini-
9 tion of the term “credit hour” in section 600.2 of
10 title 34, Code of Federal Regulations, as added by

1 the final regulations published by the Department of
2 Education in the Federal Register on October 29,
3 2010 (75 Fed. Reg. 66946).

4 (2) EFFECT OF REPEAL.—To the extent that
5 regulations repealed by paragraph (1) amended reg-
6 ulations that were in effect on June 30, 2011, the
7 provisions of the regulations that were in effect on
8 June 30, 2011, and were so amended are restored
9 and revived as if the regulations repealed by such
10 subparagraph had not taken effect.

11 (b) CREDIT HOUR.—The Secretary of Education
12 shall not, on or after the date of enactment of this Act,
13 promulgate or enforce any regulation or rule with respect
14 to the definition of the term “credit hour” for any purpose
15 under the Higher Education Act of 1965 (20 U.S.C. 1001
16 et seq.).

17 **SEC. 3. DEFINITIONS.**

18 Section 103 of the Higher Education Act of 1965 (20
19 U.S.C. 1003) is amended by adding at the end the fol-
20 lowing:

21 “(25) COMPETENCY-BASED EDUCATION; COM-
22 PETENCY-BASED EDUCATION PROGRAM.—

23 “(A) COMPETENCY-BASED EDUCATION.—

24 Except as otherwise provided, the term ‘com-

1 petency-based education’ means education
2 that—

3 “(i) measures academic progress and
4 attainment—

5 “(I) by direct assessment of a
6 student’s level of mastery of com-
7 petencies;

8 “(II) by expressing a student’s
9 level of mastery of competencies in
10 terms of equivalent credit or clock
11 hours; or

12 “(III) by a combination of the
13 methods described in subclauses (I) or
14 (II) and credit or clock hours; and

15 “(ii) provides the educational content,
16 activities, and resources, including sub-
17 stantive instructional interaction, including
18 by faculty, and regular support by the in-
19 stitution, necessary to enable students to
20 learn or develop what is required to dem-
21 onstrate and attain mastery of such com-
22 petencies, as assessed by the accrediting
23 agency or association of the institution of
24 higher education.

1 “(B) COMPETENCY-BASED EDUCATION
2 PROGRAM.—Except as otherwise provided, the
3 term ‘competency-based education program’
4 means a postsecondary program offered by an
5 institution of higher education that—

6 “(i) provides competency-based edu-
7 cation, which upon a student’s demonstra-
8 tion or mastery of a set of competencies
9 identified and required by the institution,
10 leads to or results in the award of a certifi-
11 cate, degree, or other recognized edu-
12 cational credential;

13 “(ii) ensures title IV funds may be
14 used only for learning that results from in-
15 struction provided, or overseen, by the in-
16 stitution, not for the portion of the pro-
17 gram of which the student has dem-
18 onstrated mastery prior to enrollment in
19 the program or tests of learning that are
20 not associated with educational activities
21 overseen by the institution; and

22 “(iii) is organized in such a manner
23 that an institution can determine, based on
24 the method of measurement selected by the
25 institution under subparagraph (A)(i),

1 what constitutes a full-time, three-quarter
2 time, half-time, and less than half-time
3 workload for the purposes of awarding and
4 administering assistance under title IV of
5 this Act, or assistance provided under an-
6 other provision of Federal law to attend an
7 institution of higher education.

8 “(C) COMPETENCY DEFINED.—In this
9 paragraph, the term ‘competency’ means the
10 knowledge, skill, or ability demonstrated by a
11 student in a subject area.”.

12 **SEC. 4. GENERAL PROVISIONS RELATING TO STUDENT AS-**
13 **SISTANCE.**

14 (a) DEFINITIONS OF ACADEMIC YEAR AND ELIGIBLE
15 PROGRAM.—Section 481 of the Higher Education Act of
16 1965 (20 U.S.C. 1088) is amended—

17 (1) in subsection (a), by adding at the end the
18 following:

19 “(3)(A) For the purpose of a competency-based edu-
20 cation program the term ‘academic year’ shall be the pub-
21 lished measured period established by the institution of
22 higher education that is necessary for a student with a
23 normal full-time workload for the course of study the stu-
24 dent is pursuing (as measured using the value of com-
25 petencies or sets of competencies required by such institu-

1 tion and approved by such institution’s accrediting agency
2 or association) to earn—

3 “(i) one-quarter of a bachelor’s degree;

4 “(ii) one-half of an associate’s degree; or

5 “(iii) with respect to a non-degree or graduate
6 program, the equivalent of a period described in
7 clause (i) or (ii).

8 “(B)(i) A competency-based education program that
9 is not a term-based program may be treated as a term-
10 based program for purposes of establishing payment peri-
11 ods for disbursement of loans and grants under this title
12 if—

13 “(I) the institution of higher education that of-
14 fers such program charges a flat subscription fee for
15 access to instruction during a period determined by
16 the institution; and

17 “(II) the institution is able to determine the
18 competencies a student is expected to demonstrate
19 for such subscription period.

20 “(ii) Clause (i) shall apply even in a case in which
21 instruction or other work with respect to a competency
22 that is expected to be attributable to a subscription period
23 begins prior to such subscription period.

24 “(iii) In a case in which a competency-based edu-
25 cation program offered by an institution of higher edu-

1 cation is treated as a term-based program under clause
2 (i), the institution shall review the academic progress of
3 each student enrolled in such program in accordance with
4 section 484(c), except that such review shall occur at the
5 end of each payment period.”; and

6 (2) in subsection (b), by striking paragraph (4)
7 and inserting the following:

8 “(4) For purposes of this title, the term ‘eligible pro-
9 gram’ includes a competency-based program that—

10 “(A) has been evaluated and approved by an ac-
11 crediting agency or association that—

12 “(i) is recognized by the Secretary under
13 subpart 2 of part H; and

14 “(ii) has evaluation of competency-based
15 education programs within the scope of its rec-
16 ognition in accordance with section
17 496(a)(4)(C); or

18 “(B) as of the day before the date of enactment
19 of the CBE Act of 2019, met the requirements of
20 a direct assessment program under section
21 481(b)(4) (as such section was in effect on the day
22 before such date of enactment).”.

23 (b) STUDENT ELIGIBILITY.—Section 484 of the
24 Higher Education Act of 1965 (20 U.S.C. 1091) is
25 amended—

1 (1) in subsection (b), by adding at the end the
2 following:

3 “(6) For purposes of competency-based education, in
4 order to be eligible to receive any loan under this title for
5 an award year, a student may be enrolled in coursework
6 attributable only to 2 academic years within the award
7 year.”; and

8 (2) in subsection (c)—

9 (A) in paragraph (1)—

10 (i) in subparagraph (B)—

11 (I) by striking “the student has a
12 cumulative” and inserting the fol-
13 lowing: “the student has—”

14 “(i) a cumulative;”;

15 (II) by striking “the second” and
16 inserting “each”;

17 (III) by striking the period at the
18 end and inserting “; or”; and

19 (IV) by adding at the end the fol-
20 lowing:

21 “(ii) for the purposes of competency-based
22 programs, a non-grade equivalent demonstra-
23 tion of academic standing consistent with the
24 requirements for graduation, as determined by

1 the institution, at the end of each such aca-
2 demic year; and”;

3 (ii) by adding at the end the fol-
4 lowing:

5 “(C) the student maintains a pace in his or her
6 educational program that—

7 “(i) ensures that the student completes the
8 program within the maximum timeframe; and

9 “(ii) is measured by a method determined
10 by the institution which may be based on credit
11 hours, clock hours, or competencies com-
12 pleted.”;

13 (B) in paragraph (2), by striking “grading
14 period” and inserting “evaluation period”; and

15 (C) by adding at the end the following:

16 “(4) For purposes of this subsection, the term ‘max-
17 imum timeframe’ means—

18 “(A) with respect to an undergraduate program
19 measured in credit hours, a period that is no longer
20 than 150 percent of the published length of the edu-
21 cational program, as measured in credit hours;

22 “(B) with respect to an undergraduate program
23 measured in competencies, a period that is no longer
24 than 150 percent of the published length of the edu-
25 cational program, as measured in competencies;

1 “(C) with respect to an undergraduate program
2 measured in clock hours, a period that is no longer
3 than 150 percent of the published length of the edu-
4 cational program, as measured by the cumulative
5 number of clock hours the student is required to
6 complete and expressed in calendar time; and

7 “(D) with respect to a graduate program, a pe-
8 riod defined by the institution that is based on the
9 length of the educational program.”.

10 (c) RECOGNITION OF ACCREDITING AGENCY OR AS-
11 SOCIATION.—Section 496 of the Higher Education Act of
12 1965 (20 U.S.C. 1099b) is amended—

13 (1) in subsection (a)(4)—

14 (A) in subparagraph (A), by striking
15 “and” at the end; and

16 (B) by striking subparagraph (B) and in-
17 serting the following:

18 “(B) such agency or association demonstrates
19 the ability to review, evaluate, and assess the quality
20 of any instruction delivery model or method such
21 agency or association has or seeks to include within
22 its scope of recognition, without giving preference to
23 or differentially treating a particular instruction de-
24 livery model or method offered by an institution of
25 higher education or program except that, in a case

1 in which the instruction delivery model allows for the
2 separation of the student from the instructor—

3 “(i) the agency or association requires the
4 institution to have processes through which the
5 institution establishes that the student who reg-
6 isters in a course or program is the same stu-
7 dent who participates in, including, to the ex-
8 tent practicable, testing or other assessment,
9 and completes the program and receives the
10 academic credit; and

11 “(ii) the agency or association requires
12 that any process used by an institution to com-
13 ply with the requirement under clause (i) does
14 not infringe upon student privacy and is imple-
15 mented in a manner that is minimally burden-
16 some to the student; and

17 “(C) if such an agency or association evaluates
18 or assesses the quality of competency-based edu-
19 cation programs, the agency’s or association’s eval-
20 uation or assessment—

21 “(i) shall address effectively the quality of
22 an institution’s competency-based education
23 programs as set forth in paragraph (5), except
24 that the agency or association is not required to
25 have separate standards, procedures, or policies

1 for the evaluation of competency-based edu-
2 cation;

3 “(ii) shall establish whether an institution
4 has demonstrated that its program satisfies the
5 definitions in section 103(25); and

6 “(iii) shall establish whether an institution
7 has demonstrated that it has defined an aca-
8 demic year for a competency-based program in
9 accordance with section 481(a)(3).”;

10 (2) in subsection (c)(1), by inserting “or com-
11 petency-based education” after “distance education”;

12 (3) in subsection (n)(3), by inserting “, or com-
13 petency-based education programs,” after each oc-
14 currence of “distance education courses or pro-
15 grams”; and

16 (4) by adding at the end the following:

17 “(r) WAIVER.—The Secretary shall establish a proc-
18 ess through which an agency or association may seek to
19 have a requirement of this subpart waived, if such agency
20 or association—

21 “(1) demonstrates that such waiver is necessary
22 to enable an institution of higher education or pro-
23 gram accredited by the agency or association to im-
24 plement innovative practices intended to—

1 “(A) reduce administrative burdens to the
2 institution or program without creating costs
3 for the taxpayer; or

4 “(B) improve the delivery of services to
5 students, improve instruction or learning out-
6 comes, or otherwise benefit students; and

7 “(2) describes the terms and conditions that
8 will be placed upon the program or institution to en-
9 sure academic integrity and quality.”.

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