

116TH CONGRESS
1ST SESSION

H. R. 5204

To direct the Secretary of Education to study student mental health at institutions of higher education and to issue guidance on compliance with the Americans with Disabilities Act for mental health and substance use disorder policies of institutions of higher education, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 20, 2019

Ms. PORTER (for herself, Mr. COURTNEY, and Ms. MUCARSEL-POWELL) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To direct the Secretary of Education to study student mental health at institutions of higher education and to issue guidance on compliance with the Americans with Disabilities Act for mental health and substance use disorder policies of 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 “Student Mental Health
5 Rights Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Nearly all institutions of higher education
4 are subject to—

5 (A) the Americans with Disabilities Act
6 (42 U.S.C. 12101 et seq.);

7 (B) section 504 of the Rehabilitation Act
8 of 1973 (29 U.S.C. 794); or

9 (C) the Fair Housing Act (42 U.S.C. 3601
10 et seq.).

11 (2) The laws described in paragraph (1) pro-
12 hibit discrimination on the basis of disability, de-
13 fined as “with respect to an individual, a physical or
14 mental impairment that substantially limits one or
15 more major life activities of such individual, a record
16 of such an impairment, or being regarded as having
17 such an impairment” under section 3(1) of the
18 Americans with Disabilities Act of 1990 (42 U.S.C.
19 12102(1)).

20 (3) Under section 2(a)(3) of the Americans
21 with Disabilities Act of 1990 (42 U.S.C.
22 12101(a)(3)), Congress found that “discrimination
23 against individuals with disabilities persists in such
24 critical areas as employment, housing, public accom-
25 modations, education, transportation, communica-

1 tion, recreation, institutionalization, health services,
2 voting, and access to public services”.

3 (4) The laws described in paragraph (1) pro-
4 hibit institutions of higher education from discrimi-
5 nating against students with disabilities, including
6 by failing to provide reasonable accommodations or
7 reasonable modifications to such students so that
8 such students are able to fully participate in univer-
9 sity life.

10 (5) The laws described in paragraph (1) pro-
11 hibit institutions of higher education from discrimi-
12 nating against students with a mental health disabil-
13 ities, including by failing to provide the reasonable
14 accommodations or reasonable modifications to such
15 a student.

16 (6) The vast majority of institutions of higher
17 education lack a comprehensive plan for addressing
18 and preventing discrimination against students with
19 mental health disabilities or who are experiencing
20 crises, in many cases—

21 (A) requiring such students to leave the in-
22 stitution of higher education;

23 (B) evicting such students from on-campus
24 housing; and

1 (C) establishing excessive and unnecessary
2 impediments to the return of such students to
3 the institution of higher education.

4 **SEC. 3. STUDY.**

5 (a) REQUIREMENT.—Not later than June 30, 2021,
6 the Secretary shall complete a study on mental health con-
7 ditions and substance use conditions including—

8 (1) the prevalence of such conditions among
9 students at institutions of higher education and poli-
10 cies to support students with respect to such condi-
11 tions;

12 (2) the policies of institutions of higher edu-
13 cation with respect to students considering a leave of
14 absence or return from absence due to such condi-
15 tions; and

16 (3) best practices for supporting students at in-
17 stitutions of higher education in making decisions
18 regarding the management of such conditions, in-
19 cluding the effect such practices have on graduation
20 rates and degree completion.

21 (b) REPORT.—The Secretary shall submit to the
22 House Committee on Education and Labor a report on
23 the findings of the study required by subsection (a).

1 **SEC. 4. GUIDANCE.**

2 Not later than June 30, 2021, the Secretary shall,
3 in consultation with the Assistant Attorney General of the
4 Civil Rights Division of the Department of Justice, issue
5 guidance on—

6 (1) the compliance of institutions of higher edu-
7 cation with the Americans with Disabilities Act of
8 1990 (42 U.S.C. 12101 et seq.) with respect to stu-
9 dents with mental health conditions;

10 (2) the legal obligations of institutions of higher
11 education with respect to accommodating students
12 with mental health conditions and students with sub-
13 stance use conditions; and

14 (3) policies of institutions of higher education
15 which may have a disparate impact on students with
16 mental health conditions and students with sub-
17 stance use conditions.

18 **SEC. 5. DEFINITIONS.**

19 (a) INSTITUTION OF HIGHER EDUCATION.—The
20 term “institution of higher education” has the meaning
21 given that term in section 101(a) of the Higher Education
22 Act of 1965 (20 U.S.C. 1001(a)).

23 (b) SECRETARY.—The term “Secretary” means the
24 Secretary of Education.

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