H. R. 5328

To require certain information be reported with respect to principal investigators who have discriminated, including harassed, on the basis of sex (including gender identity, sexual orientation, pregnancy, childbirth, medical conditions related to pregnancy and childbirth, parental status, and sex stereotype), and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

December 5, 2019

Ms. Speier (for herself, Ms. Kuster of New Hampshire, Mr. Rush, Mr. Khan, Ms. Slotkin, and Ms. Dean) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committees on Oversight and Reform, and Science, Space, and Technology, 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.

A BILL

To require certain information be reported with respect to principal investigators who have discriminated, including harassed, on the basis of sex (including gender identity, sexual orientation, pregnancy, childbirth, medical conditions related to pregnancy and childbirth, parental status, and sex stereotype), and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal Funding Accountability for Sexual Harassers Act”.

SEC. 2. FINDINGS; SENSE OF CONGRESS.

(a) FINDINGS.—Congress finds the following:

(1) Discrimination on the basis of sex remains pervasive in the academic workplace and especially in the fields of science, engineering, and medicine.

(2) According to a study conducted by the National Academies of Sciences, Engineering, and Medicine in 2018—

(A) academic workplaces have a rate of sexual harassment equal to 58 percent, which is second only to the military, which has a rate of sexual harassment equal to 69 percent;

(B) more than 50 percent of female faculty and staff and an estimated 20 to 50 percent of female students encounter or experience sexual harassment in academia;

(C) in a survey of undergraduate and graduate students, 1 in 5 female science students, 1 in 4 female engineering students, and 2 in 5 female medical students experienced sexual harassment from faculty and staff;
(D) with respect to sexual harassment, sexual and racial minorities are disproportionately targeted;

(E) in a study of employees in higher education, nearly 77 percent of sexual minorities of both genders experienced gender harassment compared to 30 percent of heterosexuals;

(F) women of color and racial or ethnic minorities experience harassment differently from other populations given their intersectional identities; and

(G) policies and procedures in effect as of the date of enactment of this Act often protect the liability of institutions of higher education but are not effective in preventing sexual harassment.

(b) Sense of Congress.—It is the sense of Congress that academic institutions and the Federal Government should work together to meaningfully address the issue of sexual harassment by ensuring a culture of accountability, transparency, and inclusion.
SEC. 3. UNIQUE IDENTIFIER REQUIREMENTS FOR PRINCIPAL INVESTIGATORS.

Section 2 of the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively; and

(B) by inserting after paragraph (5), the following:

“(6) PRINCIPAL INVESTIGATOR OR PROGRAM DIRECTOR.—The term ‘Principal Investigator or Program Director’—

“(A) means an individual—

“(i) designated by the entity receiving the award to direct or lead the project, program, or activity being supported by the grant; and

“(ii) responsible and accountable to the entity receiving the award for the proper conduct of the project, program, or activity; and

“(B) includes an individual identified by such institution as a co-principal investigator with respect to such grant.”; and
(2) in subsection (b)(1)(E)—

(A) by striking “award and” and inserting “award,”; and

(B) by inserting “, and the Principal Investigator or Program Director” after “another entity”.

SEC. 4. REQUIREMENTS FOR INSTITUTIONS OF HIGHER EDUCATION.

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

“(30)(A) With respect to any individual who, as a result of a grievance procedure described in section 106.8(b) of title 34, Code of Federal Regulations (or successor regulations) and carried out by the institution, is found by the institution to have engaged in discrimination, including harassment, on the basis of sex (including gender identity, sexual orientation, pregnancy, childbirth, medical conditions related to pregnancy and childbirth, parental status, and sex stereotype) while the individual was a principal investigator at the institution, the institution will report (not later than 1 month after the final disposition of such grievance procedure)—
“(i) to the Federal clearinghouse designated by the Director of the Office of Management and Budget under section 7504 of title 31, United States Code, the information specified in subclauses (I) through (VI) of clause (ii); and

“(ii) to each Federal department and agency that has awarded such institution a competitive research and development grant on or after the date that is 10 years before such finding, the following information:

“(I) The unique identifier of such individual.

“(II) The date and nature of the violation for which such determination was made.

“(III) A list of competitive research grants (including identifying numbers) for which the individual was a principal investigator.

“(IV) The findings of such determination.

“(V) The remedy (such as corrective training or suspension) required by the institution after such determination.
“(VI) Whether findings of discrimination, including harassment, on the basis of sex (including gender identity, sexual orientation, pregnancy, childbirth, medical conditions related to pregnancy and childbirth, parental status, and sex stereotype) have been found against such an investigator previously.

“(B) With respect to a complaint alleging discrimination, including harassment, on the basis of sex (including gender identity, sexual orientation, pregnancy, childbirth, medical conditions related to pregnancy and childbirth, parental status, and sex stereotype) by a principal investigator at the institution, which was filed with such institution, but for which the institution has not completed a grievance procedure described in section 106.8(b) of title 34, Code of Federal Regulations (or successor regulations) 6 months after the date on which such complaint was filed, the institution will report (not later than the date that is 7 months after the date on which such complaint was filed)—

“(i) to the Federal clearinghouse designated by the Director of the Office of Management and Budget under section 7504 of title
31, United States Code, the information specified in subclauses (I) through (VI) of clause (ii); and

“(ii) to each Federal department and agency that has awarded such institution a competitive research and development grant on or after the date that is 10 years before such complaint was filed, the following information:

“(I) The current status of the complaint.

“(II) The nature of the complaint.

“(III) The date of the alleged violation.

“(IV) The reason why the institution has yet to complete the grievance procedure.

“(V) Whether findings of discrimination, including harassment, on the basis of sex (including gender identity, sexual orientation, pregnancy, childbirth, medical conditions related to pregnancy and childbirth, parental status, and sex stereotype) have been found, against such an investigator previously.
“(C) In the case of an institution that is required to report information—

“(i) under subparagraph (A), the institution will—

“(I) ensure that such information is accurate; and

“(II) if errors are discovered in such information—

“(aa) report the corrected information to each Federal department and agency described in such subparagraph, as soon as practicable; and

“(bb) submit, as soon as practicable, to the Federal clearinghouse designated by the Director of the Office of Management and Budget under section 7504 of title 31, United States Code, a request to correct such information; or

“(ii) under subparagraph (B), the institution will not report any personally identifiable information with respect to individuals involved with the formal complaint on which the institution is reporting.
“(D) Upon receiving a request described in subparagraph (C)(i)(II)(bb), the Federal clearinghouse designated by the Director of the Office of Management and Budget under section 7504 of title 31, United States Code, shall modify or remove information reported under subparagraph (A), as applicable.

“(E) For purposes of this paragraph, the term ‘principal investigator’ has the meaning given the term in paragraph (6) of section 2(a) of the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note).

“(31) The institution will disclose in any application for a Federal award (as defined in section 2 of the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note)) submitted by such institution whether, with respect to such Federal award, a principal investigator (as defined in paragraph (30)(D))—

“(A) is, at the time such application is submitted, subject to a grievance procedure described in section 106.8(b) of title 34, Code of Federal Regulations (or successor regulations); or

“(B) has been found by the institution to have engaged in discrimination, including har-
assment, on the basis of sex (including gender identity, sexual orientation, pregnancy, childbirth, medical conditions related to pregnancy and childbirth, parental status, and sex stereotype) while the individual was a principal investigator at the institution.”.

(b) Rule of Construction.—Nothing in this section, or the amendments made by this section, shall be construed to require that an institution of higher education make a legal determination that title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) has been violated in order to conclude that discrimination, including harassment, on the basis of sex (including gender identity, sexual orientation, pregnancy, childbirth, medical conditions related to pregnancy and childbirth, parental status, and sex stereotype) has occurred.

SEC. 5. REQUIREMENTS FOR CERTAIN FEDERAL DEPARTMENTS AND AGENCIES.

(a) In General.—Each Federal department or agency authorized to award research and development grants on a competitive basis—

(1) when making the final decision of whether to award such a grant to an institution of higher education—
(A) shall determine whether any reports have been obtained by the Federal clearing-house designated by the Director of the Office of Management and Budget under section 7504 of title 31, United States Code;

(B) shall determine whether any reports have been filed under paragraph (30)(A) of section 487(a) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)), as added by section 3, on any individual who will be the principal investigator at the institution of higher education for such grant; and

(C) if such a report has been filed, will consider the report when making such decision; and

(2) shall keep each report received under such paragraph on an individual—

(A) in a case in which during the 10-year period beginning on the date of receipt of such report no additional such report is filed on such individual, for such 10-year period; or

(B) in a case in which during the 10-year period described in subparagraph (A) an additional such report is filed on such individual,
for the 10-year period beginning on the date of
receipt of such additional report; and

(3) may condition such grant award on the pro-
hibition of the individual for which a report has been
filed under such paragraph from using the grant
award or carrying out activities under the grant.

(b) REPORTS.—Each Federal department or agency
authorized to award research and development grants on
a competitive basis shall annually submit a report to Con-
gress that includes—

(1) the number of reports submitted under
paragraph (30)(A) of section 487(a) of the Higher
Education Act of 1965 (20 U.S.C. 1094(a)), as
added by section 3, and disaggregated by reports re-
ceived under clause (i) of such paragraph and by re-
ports received under clause (ii) of such paragraph;
and

(2) the number of cases in which the depart-
ment or agency recommended awarding such a grant
for which the principal investigator was an indi-
vidual on which a report under such paragraph had
been filed during the preceding fiscal year and the
reasons for each such recommendation.

(c) DEFINITIONS.—In this section:
(1) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of higher education” has the meaning given such term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002).

(2) **PRINCIPAL INVESTIGATOR.**—The term “principal investigator” has the meaning given the term in paragraph (6) of section 2(a) of the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note).

### SEC. 6. STUDY AND REPORT.

The Secretary of Education shall enter into a contract with the National Academies of Sciences, Engineering, and Medicine under which the National Academies of Sciences, Engineering, and Medicine shall, not later than 5 years after the date of the enactment of this Act, and every 5 years thereafter, conduct a comprehensive study that includes—

(1) a summary of the implementation of the recommendations from the 2018 study of such National Academies entitled “The Sexual Harassment of Women: Climate, Culture, and Consequences in Academic Sciences, Engineering, and Medicine” in—

(A) institutions of higher education;
(B) Federal agencies that provide competitively awarded grants for research and development;

(C) nonprofit organizations; and

(D) other appropriate entities identified by such National Academies;

(2) with respect to the implementation described in paragraph (1), an analysis of the effect of such implementation on addressing and preventing sexual harassment;

(3) a summary of the strategies employed by the entities described in subparagraphs (A) through (D) of paragraph (1) to address and prevent sexual harassment;

(4) an analysis of the extent to which such strategies have been researched and evaluated;

(5) with respect to the strategies described in paragraph (3), an analysis of the effect of such strategies on addressing and preventing sexual harassment; and

(6) a description of—

(A) the legislative, administrative, educational, and cultural barriers to implementing effective policies and practices aimed at reduc-
ing the negative impacts of sexual harassment;

and

(B) the strategies for overcoming such bar-

riers.