

116TH CONGRESS
1ST SESSION

S. 1492

To prevent harassment at institutions of higher education, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 15, 2019

Mrs. MURRAY (for herself, Ms. BALDWIN, Mr. BLUMENTHAL, Mr. BOOKER, Mr. CARDIN, Mr. CASEY, Ms. DUCKWORTH, Mrs. FEINSTEIN, Mrs. GILLIBRAND, Ms. HARRIS, Ms. HASSAN, Ms. HIRONO, Ms. KLOBUCHAR, Mr. MARKEY, Mr. MENENDEZ, Mr. MERKLEY, Ms. ROSEN, Mr. SANDERS, Mr. SCHATZ, Mrs. SHAHEEN, Ms. SMITH, Mr. VAN HOLLEN, Ms. WARREN, Mr. WHITEHOUSE, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To prevent harassment 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 “Tyler Clementi Higher
5 Education Anti-Harassment Act of 2019”.

1 **SEC. 2. INSTITUTIONAL AND FINANCIAL ASSISTANCE IN-**
2 **FORMATION FOR STUDENTS.**

3 Section 485(f) of the Higher Education Act of 1965
4 (20 U.S.C. 1092(f)) is amended—

5 (1) by striking the subsection heading and in-
6 sserting “DISCLOSURE OF CAMPUS SECURITY AND
7 HARASSMENT POLICY AND CAMPUS CRIME STATIS-
8 TICS.”;

9 (2) in paragraph (6)(A)—

10 (A) by redesignating clauses (iii), (iv), and
11 (v), as clauses (vi), (vii), and (viii), respectively;
12 and

13 (B) by inserting after clause (ii) the fol-
14 lowing:

15 “(iii) The term ‘commercial mobile service’ has
16 the meaning given the term in section 332(d) of the
17 Communications Act of 1934 (47 U.S.C. 332(d)).

18 “(iv) The term ‘electronic communication’
19 means any transfer of signs, signals, writing, im-
20 ages, sounds, or data of any nature transmitted in
21 whole or in part by a wire, radio, electromagnetic,
22 photoelectronic, or photooptical system.

23 “(v) The term ‘electronic messaging services’
24 has the meaning given the term in section 102 of the
25 Communications Assistance for Law Enforcement
26 Act (47 U.S.C. 1001).”;

1 (3) by redesignating paragraphs (9) through
2 (18) as paragraphs (10) through (19), respectively;
3 and

4 (4) by inserting after paragraph (8) the fol-
5 lowing:

6 “(9)(A) Each institution of higher education partici-
7 pating in any program under this title, other than a for-
8 eign institution of higher education, shall develop and dis-
9 tribute as part of the report described in paragraph (1)—

10 “(i) a statement of policy regarding harassment
11 on the basis of a student’s actual or perceived race,
12 color, national origin, sex (including sexual orienta-
13 tion, gender identity, pregnancy, childbirth, a med-
14 ical condition related to pregnancy or childbirth, and
15 a sex stereotype), disability, or religion, which shall
16 include—

17 “(I) a prohibition of such harassment of
18 enrolled students by other students, faculty,
19 and staff—

20 “(aa) on campus;

21 “(bb) in noncampus buildings or on
22 noncampus property;

23 “(cc) on public property;

24 “(dd) in dormitories or other residen-
25 tial facilities for students on campus;

1 “(ee) through the use of electronic
2 mail addresses issued by the institution of
3 higher education;

4 “(ff) through the use of computers
5 and communication networks, including
6 any telecommunications service, owned, op-
7 erated, or contracted for use by the institu-
8 tion of higher education or its agents; or

9 “(gg) during an activity sponsored by
10 the institution of higher education or car-
11 ried out with the use of resources provided
12 by the institution of higher education;

13 “(II) a prohibition of such harassment that
14 is carried out in whole or in part through the
15 use of electronic messaging services, commercial
16 mobile services, electronic communications, or
17 other technology;

18 “(III) a description of the institution’s pro-
19 grams to combat harassment, which shall be
20 aimed at the prevention of harassment;

21 “(IV) a description of the procedures that
22 a student should follow if an incident of harass-
23 ment occurs; and

1 “(V) a description of the procedures that
2 the institution will follow once an incident of
3 harassment has been reported; and

4 “(ii) a detailed description of each occasion in
5 which a pattern of harassment occurs based on one
6 or more of the characteristics described in clause (i)
7 and the actions taken by the institution of higher
8 education.

9 “(B) The statement of policy described in subpara-
10 graph (A)(i) shall address the following areas:

11 “(i) Procedures for timely institutional action in
12 cases of alleged harassment, which procedures shall
13 include a clear statement that the accuser and the
14 accused shall be informed of the outcome of any dis-
15 ciplinary proceedings in response to an allegation of
16 harassment.

17 “(ii) Possible sanctions to be imposed following
18 the final determination of an institutional discipli-
19 nary procedure regarding harassment.

20 “(iii) Notification of existing counseling, mental
21 health, or student services for victims or perpetra-
22 tors of harassment, both on campus and in the com-
23 munity.

24 “(iv) Identification of a designated employee or
25 office at the institution that will be responsible for

1 receiving and tracking each report of harassment by
 2 a student, faculty, or staff member.”.

3 **SEC. 3. ANTI-HARASSMENT COMPETITIVE GRANT PRO-**
 4 **GRAM.**

5 (a) DEFINITIONS.—In this section:

6 (1) ELIGIBLE ENTITY.—The term “eligible enti-
 7 ty” means—

8 (A) an institution of higher education, in-
 9 cluding an institution of higher education in a
 10 collaborative partnership with a nonprofit orga-
 11 nization; or

12 (B) a consortium of institutions of higher
 13 education located in the same State.

14 (2) SECRETARY.—The term “Secretary” means
 15 the Secretary of Education.

16 (b) PROGRAM AUTHORIZED.—The Secretary is au-
 17 thorized to award grants, on a competitive basis, to eligible
 18 entities to enable eligible entities to carry out the author-
 19 ized activities described in subsection (d).

20 (c) AMOUNT OF GRANT AWARDS.—The Secretary
 21 shall ensure that each grant awarded under this section
 22 is of sufficient amount to enable the grantee to meet the
 23 purpose of this section.

24 (d) AUTHORIZED ACTIVITIES.—An eligible entity
 25 that receives a grant under this section shall use the funds

1 made available through the grant to address harassment
2 on the basis of one or more of the characteristics described
3 in section 485(f)(9)(A)(i) of the Higher Education Act of
4 1965 (20 U.S.C. 1092(f)(9)(A)(i)), as amended by section
5 2 of this Act, by initiating, expanding, or improving pro-
6 grams—

7 (1) to prevent the harassment of students at in-
8 stitutions of higher education;

9 (2) at institutions of higher education that pro-
10 vide counseling or redress services to students who
11 have suffered such harassment or students who have
12 been accused of subjecting other students to such
13 harassment; or

14 (3) that educate or train students, faculty, or
15 staff of institutions of higher education about ways
16 to prevent harassment or ways to address such har-
17 assment if it occurs.

18 (e) APPLICATION.—To be eligible to receive a grant
19 under this section, an eligible entity shall submit an appli-
20 cation to the Secretary at such time, in such manner, and
21 containing such information, as the Secretary may re-
22 quire.

23 (f) DURATION; RENEWAL.—A grant under this sec-
24 tion shall be awarded for a period of not more than 3

1 years. The Secretary may renew a grant under this section
2 for one additional period of not more than 2 years.

3 (g) AWARD CONSIDERATIONS.—In awarding a grant
4 under this section, the Secretary shall select eligible enti-
5 ties that demonstrate the greatest need for a grant and
6 the greatest potential benefit from receipt of a grant.

7 (h) REPORT AND EVALUATION.—

8 (1) EVALUATION AND REPORT TO THE SEC-
9 RETARY.—Not later than 6 months after the end of
10 the eligible entity's grant period, the eligible entity
11 shall—

12 (A) evaluate the effectiveness of the activi-
13 ties carried out with the use of funds awarded
14 pursuant to this section; and

15 (B) prepare and submit to the Secretary a
16 report on the results of the evaluation con-
17 ducted by the entity.

18 (2) EVALUATION AND REPORT TO CONGRESS.—
19 Not later than 12 months after the date of receipt
20 of the first report submitted pursuant to paragraph
21 (1) and annually thereafter, the Secretary shall pro-
22 vide to the Committee on Health, Education, Labor,
23 and Pensions of the Senate and the Committee on
24 Education and Labor of the House of Representa-
25 tives a report that includes the following:

1 (A) The number and types of eligible enti-
2 ties receiving assistance under this section.

3 (B) The anti-harassment programs being
4 implemented with assistance under this section
5 and the costs of such programs.

6 (C) Any other information determined by
7 the Secretary to be useful in evaluating the
8 overall effectiveness of the program established
9 under this section in decreasing incidents of
10 harassment at institutions of higher education.

11 (3) BEST PRACTICES REPORT.—The Secretary
12 shall use the information provided under paragraph
13 (1) to publish a report of evidence-based best prac-
14 tices for combating harassment at institutions of
15 higher education, which shall be based on scientific
16 research that meets nationally recognized standards.
17 The report shall be made available to all institutions
18 of higher education and other interested parties.

19 (i) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to carry out this section
21 \$50,000,000 for each of fiscal years 2020 through 2025.

22 **SEC. 4. EFFECT ON OTHER LAWS.**

23 Nothing in this Act shall be construed to invalidate
24 or limit rights, remedies, procedures, or legal standards
25 available under any other Federal law or law of a State

1 or political subdivision of a State, including title VI of the
2 Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title
3 IX of the Education Amendments of 1972 (20 U.S.C.
4 1681 et seq.), section 504 or 505 of the Rehabilitation
5 Act of 1973 (29 U.S.C. 794, 794a), or the Americans with
6 Disabilities Act of 1990 (42 U.S.C. 12101 et seq.). The
7 obligations imposed by this Act are in addition to those
8 imposed by title VI of the Civil Rights Act of 1964 (42
9 U.S.C. 2000d et seq.), title IX of the Education Amend-
10 ments of 1972 (20 U.S.C. 1681 et seq.), section 504 of
11 the Rehabilitation Act of 1973 (29 U.S.C. 794), and the
12 Americans with Disabilities Act of 1990 (42 U.S.C. 12101
13 et seq.).

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