

117TH CONGRESS
2D SESSION

S. 5158

To strengthen civil rights protections against harassment based on sex, race, color, national origin, disability, or age.

IN THE SENATE OF THE UNITED STATES

DECEMBER 1, 2022

Mr. CASEY (for himself, Ms. HIRONO, Mr. BOOKER, Mr. WHITEHOUSE, and Ms. BALDWIN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To strengthen civil rights protections against harassment based on sex, race, color, national origin, disability, or age.

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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Students’ Access to Freedom and Educational Rights
6 Act of 2022”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—PROHIBITION ON HARASSMENT

- Sec. 101. Amendments to title IX of the Education Amendments of 1972.
 Sec. 102. Amendments to the Rehabilitation Act of 1973.
 Sec. 103. Amendments to title VI of the Civil Rights Act of 1964.
 Sec. 104. Amendments to the Age Discrimination Act of 1975.

TITLE II—TRANSPARENCY, TRAINING, AND SUPPORT FOR
STUDENTS

- Sec. 201. Department of Education enforcement.
 Sec. 202. Disclosure of religious exemptions from title IX of the Education
 Amendments of 1972.
 Sec. 203. Climate surveys for k–12 schools.
 Sec. 204. Civil Rights Data Collection.
 Sec. 205. Support for students.
 Sec. 206. Title IX coordinators and training requirements.

1 SEC. 2. FINDINGS.

2 Congress finds the following:

- 3 (1) During a decade of civil rights reforms,
 4 Congress passed title VI of the Civil Rights Act of
 5 1964 (42 U.S.C. 2000d et seq.) (referred to in this
 6 section as “title VI”), which prohibits discrimination
 7 based on race, color, or national origin in federally
 8 funded programs and activities; title IX of the Edu-
 9 cation Amendments of 1972 (20 U.S.C. 1681 et
 10 seq.) (referred to in this section as “title IX”),
 11 which prohibits sex discrimination in federally fund-
 12 ed education programs and activities; section 504 of
 13 the Rehabilitation Act of 1973 (29 U.S.C. 794) (re-
 14 ferred to in this section as “section 504”), which
 15 prohibits discrimination based on disability in feder-
 16 ally funded programs and activities; and the Age
 17 Discrimination Act of 1975 (42 U.S.C. 6101 et
 18 seq.), which prohibits discrimination based on age in

1 federally funded programs and activities. Half a cen-
2 tury after their passage, still more needs to be done
3 to ensure that students enjoy protections consistent
4 with the spirit, intent, and promise of these
5 groundbreaking civil rights laws.

6 (2) Schools are still failing to take necessary
7 steps to prevent harassment on the basis of sex,
8 race, national origin, color, and disability and pro-
9 vide survivors of sexual assault and other forms of
10 harassment—especially women and girls, students of
11 color, LGBTQI+ students, and students with dis-
12 abilities—the support and services they need to feel
13 safe and learn in school, denying them equal edu-
14 cational opportunities.

15 (3) As the Supreme Court has held in *Franklin*
16 *v. Gwinnett County Public Schools*, 503 U.S. 60
17 (1992), and *Davis v. Monroe County Board of Edu-*
18 *cation*, 526 U.S. 629 (1999), covered entities are re-
19 sponsible for preventing and addressing harassment
20 on the basis of sex in their education programs and
21 activities under title IX. Following this principle,
22 courts have similarly required funding recipients to
23 address harassment based on race, color, national
24 origin, and disability in their education programs
25 and activities.

1 (4) Perpetrators of harassment based on sex,
2 race, color, national origin, or disability at school are
3 not limited to students, nor are the victims of such
4 harassment. Incidents have also involved faculty, ad-
5 ministrators, coaches, volunteers, other staff mem-
6 bers, and visitors.

7 (5) Sexual harassment of students, especially of
8 women and girls, students of color, students with
9 disabilities, and LGBTQI+ students, is widely prev-
10 alent in K–12 and higher education. For example—

11 (A) 1 in 5 girls ages 14 through 18 have
12 been kissed or touched without their consent,
13 58 percent of LGBTQI+ youth ages 13
14 through 21 have been sexually harassed, and
15 disabled children are 2.9 times more likely than
16 their peers to be sexually assaulted;

17 (B) women and girls of color are more like-
18 ly to experience sexual harassment in school
19 than their White peers; and

20 (C) in college—

21 (i) more than 1 in 4 women, more
22 than 1 in 15 men, and nearly 1 in 4
23 transgender, nonbinary, and gender-non-
24 conforming students are sexually assaulted
25 during their time as undergraduates;

1 (ii) 1 in 7 women, 1 in 10 men, and
2 1 in 5 transgender, nonbinary, and gender-
3 nonconforming students experience dating
4 violence or domestic violence as under-
5 graduates; and

6 (iii) 1 in 10 women, 1 in 33 men, and
7 1 in 7 transgender, nonbinary, and gender-
8 nonconforming students experience stalk-
9 ing as undergraduates.

10 (6) Students also experience forms of sex-based
11 harassment beyond sexual harassment, such as har-
12 assment based on sexual orientation, gender identity,
13 sex characteristics (including intersex status), preg-
14 nancy, childbirth, medical conditions related to preg-
15 nancy or childbirth, and sex stereotypes.

16 (A) For example, according to one study,
17 86.3 percent of LGBTQI+ students experi-
18 enced harassment or assault based on personal
19 characteristics, 77.6 percent reported avoiding
20 school functions, and 71.8 percent reported
21 avoiding extracurricular activities because they
22 felt unsafe or uncomfortable.

23 (B) According to another study, 64 percent
24 of girls who were pregnant or parenting re-
25 ported not feeling safe at school as a barrier to

1 attending school compared to 32 percent of
2 girls overall.

3 (7) Like sex-based harassment, harassment
4 based on race, color, national origin, and disability
5 remains a problem at educational institutions.

6 (A) Between 2011 and 2016, the National
7 Center for Education Statistics documented a
8 40-percent increase in college campus hate inci-
9 dents. According to the Bureau of Justice Sta-
10 tistics, racial bias is the most common motiva-
11 tion behind these hate incidents.

12 (B) The Centers for Disease Control and
13 Prevention has agreed that racism has a pro-
14 found and negative impact on the mental and
15 physical health of people of color. As such, rac-
16 ist incidents can take a serious toll on students'
17 overall health and well-being, even affecting
18 their academic performance. A 2021 UCLA
19 study found that young adults who experience
20 discrimination are at higher risk for both short
21 and long-term behavioral and mental health
22 problems that are exacerbated with each inci-
23 dent.

24 (C) According to the Department of Jus-
25 tice, the rate of violence victimization against

1 persons with disabilities is nearly 4 times the
2 rate for nondisabled persons. Nearly $\frac{1}{3}$ of chil-
3 dren and adolescents with disabilities have ex-
4 perience violence. Corporal punishment is al-
5 most twice as high in schools with a higher pro-
6 portion of students with disabilities receiving
7 special education services as in other schools.
8 Girls with disabilities are also at higher risk of
9 sexual violence perpetrated by their peers than
10 nondisabled girls.

11 (8) The Government Accountability Office esti-
12 mated that about 1 in 4 students aged 12–18 saw
13 hate words or symbols written at schools in 2014–
14 2015, 2016–2017, and 2018–2019.

15 (9) Students also often experience intersectional
16 forms of harassment that, for example, may include
17 sexual harassment that is racialized or harassment
18 based on having a disability and being transgender,
19 among other types of intersectional harassment.

20 (10) Few students report harassment to their
21 schools, often because of shame or self-blame, fear
22 of retaliation, fear of being ignored or disciplined,
23 fear of police or immigration officials, or lack of
24 knowledge of services schools can offer to help. In
25 particular, women and girls of color, women and

1 girls with disabilities, pregnant and parenting stu-
2 dents, and LGBTQI+ students are too often dis-
3 believed and met with unsupportive responses, in-
4 cluding retaliation, after reporting sexual harass-
5 ment because of stereotypes that label them as less
6 credible. Men and boys, too, are often disbelieved or
7 dismissed when they report sexual harassment.

8 (11) Failure of a school to comply with title IX,
9 title VI, and section 504 may limit or deny the abil-
10 ity of students, employees, and others to participate
11 in or benefit from the school's education programs
12 or activities leading to discrimination by creating a
13 hostile learning environment that impedes edu-
14 cational attainment, damages rights to equal edu-
15 cational opportunities, and undermines learning for
16 all.

17 (12) When schools fail to protect student vic-
18 tims of harassment, including by failing to offer sup-
19 portive measures that are designed to preserve and
20 restore the educational opportunities of the victim,
21 students often suffer in the form of emotional dis-
22 tress, mental health consequences, lower academic
23 achievement, lost scholarships and financial aid,
24 poor school attendance, and decreased school com-
25 pletion rates. Moreover, many schools may respond

1 negatively to harassment by creating additional trauma and harm for the student victim (often by, for
2 example, blaming the student for their victimization
3 or by refusing to help them), which is also known as
4 “institutional betrayal”. Harm may also be caused
5 by the Title IX coordinators having a conflict of interest, such as serving within school leadership or
6 local educational agency leadership (including serving
7 as a principal, vice principal, headmaster, superintendent, board member, general counsel, athletics
8 director, coach, or dean of students, or on a judicial
9 hearing board or in a position to whom an appeal
10 might be made).

14 (13) The language of title IX is broad and
15 sweeping, making clear that the intent of Congress
16 is to provide avenues of redress for opening the
17 courthouse doors to victims of a wide range of sex
18 discrimination in schools. However, since the passage
19 of title IX, courts have created barriers that
20 make it extraordinarily difficult for survivors to obtain
21 redress from schools through private litigation.

22 (14) In a 5 to 4 opinion in *Gebser v. Lago Vista Independent School District*, 524 U.S. 274
23 (1998), the Supreme Court held that students subjected
24 to sex-based harassment by their teachers
25

1 may receive a damages remedy in private litigation
2 under title IX only when school officials with “au-
3 thority to institute correct measures” on the recipi-
4 ent’s behalf have “actual notice” of the harassment
5 and are “deliberately indifferent”, or respond in a
6 clearly unreasonable manner, to it. A year later, in
7 *Davis v. Monroe County Board of Education*, 526
8 U.S. 629 (1999), the Supreme Court held that in
9 order to receive money damages under title IX, stu-
10 dents who experience sex-based harassment by their
11 peers, must additionally show that the harassment is
12 “so severe, pervasive, and objectively offensive that
13 it can be said to deprive the victims of access to the
14 educational opportunities or benefits provided by the
15 school.” Courts have applied the same standards in
16 requiring funding recipients to address harassment
17 based on race, color, national origin, or disability.

18 (15) In contrast, in the workplace, under title
19 VII of the Civil Rights Act of 1964 (42 U.S.C.
20 2000e et seq.) (referred to in this section as “title
21 VII”), a plaintiff experiencing harassment based on
22 sex, race, color, national origin, or religion by a co-
23 worker or other non-supervisor need only show their
24 employer reacted negligently in response to severe or
25 pervasive harassment of which the employer knew or

1 should have known. And sometimes—such as when
2 a supervisor fires someone because they refuse to
3 submit to sexual advances—title VII automatically
4 holds an employer liable.

5 (16) Although they do not affect the relevant
6 standards for individuals to obtain injunctive and
7 equitable relief for harassment on the basis of race,
8 color, sex, national origin, age, or disability under
9 covered programs and activities, the Supreme
10 Court’s decisions in *Gebser v. Lago Vista Inde-*
11 *pendent School District* and *Davis v. Monroe County*
12 *Board of Education* and lower court opinions se-
13 verely limit the availability of remedies for such indi-
14 viduals by imposing more stringent standards for re-
15 covery of damages. Yet in many cases, damages are
16 the only remedy that would effectively rectify past
17 harassment. Further, in 2022, in *Cummings v. Pre-*
18 *mier Rehab Keller PLLC*, 142 S. Ct. 1562 (2022),
19 the Supreme Court limited the ability of plaintiffs
20 bringing disability discrimination claims under the
21 Patient Protection and Affordable Care Act (Public
22 Law 111–148) and section 504 to recover emotional
23 distress damages, which are often the sole or pri-
24 mary remedy for survivors of harassment. The dis-
25 senting Justices in *Cummings* warned that this rul-

1 ing upset Congressional intent and longstanding
2 precedent under these and other statutes, suggesting
3 the possibility that its logic might be extended in the
4 future to other laws such as title IX and title VI.
5 Some lower courts have added additional onerous
6 barriers, such as one under which a school is liable
7 for its failure to address known sexual harassment
8 only if the victim later experiences further sexual
9 harassment as a result of this failure.

10 (17) These limitations thwart the purpose of
11 Congress to protect students from harassment and
12 ensure non-discriminatory educational environments.
13 They create prohibitively high standards for the law-
14 suits of students regarding harassment based on sex,
15 race, color, national origin, and disability under title
16 IX, title VI, and section 504 that are more onerous
17 than those applicable to workplace harassment law-
18 suits under title VII. As a result, schools may do
19 less to address harassment against their students
20 than to address the same harassment of their em-
21 ployees. This means that students, who are often
22 children and young adults, must suffer worse har-
23 assment than adult employees before they are enti-
24 tled to a remedy in court.

1 (18) Gebser v. Lago Vista Independent School
2 District, Davis v. Monroe County Board of Edu-
3 cation, and subsequent opinions create an incentive
4 for covered entities to insulate themselves from
5 knowledge of harassment rather than adopting and
6 enforcing practices that will minimize the danger of
7 such harassment. These opinions thus undermine
8 the purpose of prohibitions on discrimination in the
9 civil rights laws, which is to induce covered pro-
10 grams or activities to adopt and enforce practices
11 that will minimize the danger that vulnerable stu-
12 dents or other persons will be exposed to such odious
13 behavior.

14 (19) Current title IX regulations issued by the
15 Department of Education in 2020 entitled “Non-
16 discrimination on the Basis of Sex in Education
17 Programs or Activities Receiving Federal Financial
18 Assistance” (part 106 of title 34, Code of Federal
19 Regulations), have made it more difficult for student
20 survivors to report harassment to schools and receive
21 help, including by, for example, only allowing schools
22 to respond to title IX complaints of sexual harass-
23 ment that is so severe, pervasive, and objectively of-
24 fensive that it effectively denies a person equal ac-
25 cess to a school program or activity—meaning stu-

1 dents will have to endure repeated and escalating
2 levels of harassment before their complaint can even
3 be investigated. These regulations also pose uniquely
4 burdensome procedures for cases of sexual harass-
5 ment that are not required for any other type of stu-
6 dent or staff misconduct, further sweeping sexual vi-
7 olence under the rug.

8 (20) Department of Education guidance ex-
9 plains the requirement under title VI and section
10 504 for institutions to respond to harassment based
11 on disability, race, color, or national origin that is
12 sufficiently serious to deny or limit the ability of a
13 student to participate in or benefit from the edu-
14 cation programs and activities of the recipient.

15 (21) Schools with affirming and welcoming en-
16 vironments that provide support and protection
17 against all forms of harassment and discrimination
18 ensure that students have better social, behavioral,
19 academic, and mental health outcomes.

20 (22) Legislative action is necessary and appro-
21 priate to restore the access to the courts that was
22 sharply limited by *Gebser v. Lago Vista Independent*
23 *School District*, *Davis v. Monroe County Board of*
24 *Education*, *Cummings v. Premier Rehab*, and other
25 court opinions, restore the availability of a full range

1 of remedies for harassment based on sex, race, color,
2 national origin, disability, or age, and prevent dis-
3 criminatory harassment in schools. Any action needs
4 to take into full account the intersectionality of inci-
5 dents of harassment in educational programs or ac-
6 tivities. Sex-based violence and harassment often
7 harms those populations already most vulnerable at
8 education institutions.

9 (23) In landmark rulings in *Price Waterhouse*
10 *v. Hopkins* 490 U.S. 228 (1989) and *Bostock v.*
11 *Clayton County, Ga.* (2020), the Supreme Court cor-
12 rectly interpreted title VII to hold that discrimina-
13 tion on the basis of sex stereotypes, sexual orienta-
14 tion, or gender identity necessarily constitute dis-
15 crimination “because of sex”. To date, Federal
16 courts of appeal have held uniformly that these hold-
17 ings apply equally to title IX. Legislative action is
18 necessary and appropriate to codify these established
19 interpretations of title IX law and ensure support
20 and protection for LGBTQI+ students against se-
21 vere and widespread discriminatory harassment.

22 (24) Discrimination by State and local govern-
23 ments on the basis of sex, race, color, national ori-
24 gin, age, or disability in education programs and ac-
25 tivities receiving Federal financial assistance violates

1 the Equal Protection Clause of the 14th Amendment
2 to the Constitution of the United States. In many
3 circumstances, such discrimination also violates
4 other constitutional rights such as those of liberty
5 and privacy under the Due Process Clause of the
6 14th Amendment. Congress may validly invoke its
7 powers under the 14th Amendment to provide a full
8 range of remedies in response to discrimination by
9 both private and government actors.

10 (25) In enacting the protections of the amend-
11 ments made by this Act, Congress is acting pursuant
12 to its authority under section 5 of the 14th Amend-
13 ment to the Constitution of the United States, the
14 Commerce Clause of section 8 of article I of the
15 Constitution of the United States, and the Spending
16 Clause of section 8 of article I of the Constitution
17 of the United States.

18 (26) Members of Congress have long been advo-
19 cating for substantive reforms that support student
20 survivors and ensure gender equity in schools, in-
21 cluding the HALT on Campus Sexual Violence Act,
22 the Supporting Survivors of Sexual Harassment in
23 Schools Act of 2020, the Patsy T. Mink and Louise
24 M. Slaughter Gender Equity in Education Act, the
25 Stop Sexual Harassment in K–12 Act, and the Ex-

1 posing Discrimination in Higher Education Act.
2 Provisions from these groundbreaking pieces of leg-
3 islation serve as the foundation on which any larger
4 comprehensive reform must be built.

5 (27) Restoring the availability of a full range of
6 remedies for harassment will—

7 (A) ensure that students and other persons
8 participating or attempting to participate in
9 federally funded programs and activities have
10 protection from harassment on the basis of sex
11 (including sexual orientation, gender identity,
12 sex characteristics, pregnancy, childbirth, a
13 medical condition related to pregnancy or child-
14 birth, and sex stereotypes), race, color, national
15 origin, disability, or age;

16 (B) encourage covered entities to adopt
17 and enforce meaningful policies and procedures
18 to prevent and remedy harassment;

19 (C) deter incidents of harassment; and

20 (D) provide appropriate remedies for har-
21 assment.

22 (28) Schools do not harass students on the
23 basis of race, gender, or sex when they teach or in-
24 corporate anti-racism principles, diversity, equity
25 and inclusion practices, culturally relevant cur-

1 riculum and culturally responsive teaching, critical
 2 race theory, or otherwise focus the experiences of
 3 students of color, women and girls, and LGBTQI+
 4 students. Indeed, such teaching and training, when
 5 implemented appropriately, may often further the
 6 purposes of the mandate of title VI to prohibit dis-
 7 crimination based on race, color, and national origin
 8 and the mandate of title IX to prohibit discrimina-
 9 tion based on sex, while also ensuring that schools
 10 are advancing equity.

11 **TITLE I—PROHIBITION ON**
 12 **HARASSMENT**

13 **SEC. 101. AMENDMENTS TO TITLE IX OF THE EDUCATION**
 14 **AMENDMENTS OF 1972.**

15 Title IX of the Education Amendments of 1972 (20
 16 U.S.C. 1681 et seq.) is amended—

17 (1) in section 901, by adding at end the fol-
 18 lowing:

19 “(d) **LIABILITY FOR SEX-BASED HARASSMENT.**—

20 “(1) **HARASSMENT BY AGENTS, EMPLOYEES,**
 21 **AND OTHER PERSONS AUTHORIZED BY THE RECIPI-**
 22 **ENT TO PROVIDE AID, BENEFIT, OR SERVICE.**—Sub-
 23 ject to subsection (e), a recipient shall be liable if its
 24 agent, employee, or other person authorized by the
 25 recipient to provide aid, benefit, or service under the

1 recipient's program or activity, engages in sex-based
2 harassment against a person who participates in or
3 receives any benefit, service, or opportunity from
4 such program or activity, or who attempts to receive
5 such benefit, service, or opportunity, regardless of
6 where the harassment occurs, if—

7 “(A) the harassment is enabled or assisted
8 by the authority exercised as an agent, em-
9 ployee, or other authorized person of the recipi-
10 ent; or

11 “(B) the recipient receives notice of the
12 harassment.

13 “(2) HARASSMENT BY NON-AGENTS, NON-EM-
14 PLOYEES, AND OTHER NON-AUTHORIZED PER-
15 SONS.—Subject to subsection (e), a recipient is liable
16 for sex-based harassment if a person who is not its
17 agent, employee, or other authorized person, engages
18 in sex-based harassment against a person who is
19 participating in or receiving any benefit, service, or
20 opportunity from such program or activity, or who
21 is attempting to do so, regardless of where the har-
22 assment occurs, if the recipient receives notice of the
23 harassment.

24 “(e) AFFIRMATIVE DEFENSE.—

1 “(1) IN GENERAL.—A recipient is not liable in
2 a private action for damages under subsection (d)
3 for sex-based harassment, if the recipient dem-
4 onstrates that it exercised reasonable care to prevent
5 sex-based harassment and to promptly remedy the
6 effects of the sex-based harassment at issue, includ-
7 ing through a demonstration by the recipient that
8 it—

9 “(A) established, adequately publicized,
10 and enforced an effective and comprehensive
11 sex-based harassment prevention policy, train-
12 ing, and complaint procedure that is likely to
13 provide redress and to avoid harm without ex-
14 posing the person subjected to such harassment
15 to undue risk, effort, or expense;

16 “(B) if requested by an aggrieved person
17 subjected to sex-based harassment (or the par-
18 ent or guardian of such person, if such person
19 is a minor), or otherwise necessary to protect
20 such person or other persons in such program
21 or activity from a significant ongoing threat of
22 harm, undertook a prompt, thorough, and im-
23 partial investigation of such harassment;

24 “(C) provided supportive measures that
25 have the purpose and effect of preserving and

1 restoring a person subjected to sex-based har-
2 assment’s equal access to the recipient’s edu-
3 cation program or activity, regardless of wheth-
4 er such person requests an investigation; and

5 “(D) took other necessary, immediate, and
6 appropriate corrective action designed to stop
7 such harassment and remedy its effects.

8 “(2) NOT ESTABLISHING REASONABLE CARE.—

9 A showing that the harassment did not recur after
10 the recipient received notice of the harassment does
11 not establish reasonable care absent the demonstra-
12 tion required by subparagraphs (A) through (D) of
13 paragraph (1).

14 “(f) NOTICE.—A recipient receives notice of sex-
15 based harassment if an agent, employee, or other author-
16 ized person of the recipient, or in the exercise of reason-
17 able care should have known, about the harassment and—

18 “(1) has the authority to take action to redress
19 the harassment;

20 “(2) has the responsibility to report to an ad-
21 ministrators harassment or similar misconduct by
22 others; or

23 “(3) receives a report of such harassment from
24 an individual who could reasonably believe that the

1 agent, employee, or other authorized person is as de-
2 scribed in paragraph (1) or (2).”;

3 (2) in section 903—

4 (A) in the 1st sentence by inserting “(a)”
5 before “Any”; and

6 (B) by adding at the end of the following:

7 “(b) Any person aggrieved by the failure of a recipi-
8 ent to comply with section 901, or a rule issued under
9 this title, may bring a civil action in any court of com-
10 petent jurisdiction.

11 “(c) In a civil action brought for a violation of section
12 901 by or on behalf of a person aggrieved by a violation
13 of section 901, such person may recover equitable and
14 legal relief (such as compensatory damages, including for
15 emotional distress, and punitive damages), and attorney’s
16 fees (including expert fees).”; and

17 (3) by inserting after section 908 the following:

18 **“SEC. 908A. DEFINITIONS.**

19 “For purposes of this title—

20 “(1) the term ‘gender identity’—

21 “(A) means a person’s internal sense of
22 gender, which could be female, male, or another
23 gender;

24 “(B) includes a person’s gender expression,
25 which is how they present their gender identity

1 outwardly, including through appearance, man-
2 nerisms, dress, or other gender-related charac-
3 teristics; and

4 “(C) may or may not match their des-
5 igned sex at birth;

6 “(2) the term ‘on the basis of sex’ includes,
7 inter alia, on the basis of, perceived or actual—

8 “(A) sex stereotypes;

9 “(B) pregnancy or related conditions, in-
10 cluding—

11 “(i) childbirth, termination of preg-
12 nancy, or lactation;

13 “(ii) medical conditions related to
14 pregnancy, childbirth, termination of preg-
15 nancy, or lactation; or

16 “(iii) recovery from pregnancy, child-
17 birth, termination of pregnancy, lactation,
18 or their related medical conditions;

19 “(C) sexual orientation;

20 “(D) gender identity; or

21 “(E) sex characteristics, including inter-sex
22 traits;

23 “(3) the term ‘recipient’ means an entity de-
24 scribed in any of paragraphs (1) through (4) of sec-

1 tion 908 and includes any entity that exercises con-
 2 trolling authority over such recipient;

3 “(4) the term ‘sex-based harassment’—

4 “(A) means conduct on the basis of sex, in-
 5 cluding conduct of a sexual nature, that unrea-
 6 sonably alters a person’s ability to participate
 7 in or receive any benefit, service, or opportunity
 8 from an education program or activity that re-
 9 ceives Federal financial assistance, including by
 10 creating an intimidating, hostile, or offensive
 11 environment; and

12 “(B) includes an employee, agent, or other
 13 person authorized by the recipient to provide an
 14 aid, benefit, or service under the recipient’s
 15 education program or activity, explicitly or
 16 impliedly conditioning the provision of such an
 17 aid, benefit, or service on a person’s participa-
 18 tion in sexual conduct; and

19 “(5) the term ‘sexual orientation’ includes ho-
 20 mosexuality, heterosexuality, bisexuality,
 21 pansexuality, and asexuality.”.

22 **SEC. 102. AMENDMENTS TO THE REHABILITATION ACT OF**
 23 **1973.**

24 (a) **NONDISCRIMINATION UNDER FEDERAL GRANTS**
 25 **AND PROGRAMS.**—Section 504 of the Rehabilitation Act

1 of 1973 (29 U.S.C. 794) is amended by adding at the end
2 the following:

3 “(e) PROHIBITION OF HARASSMENT ON THE BASIS
4 OF DISABILITY.—

5 “(1) LIABILITY FOR DISABILITY-BASED HAR-
6 ASSMENT.—Subject to paragraph (2), in an action
7 pursuant to section 505(a)(2), a recipient receiving
8 Federal financial assistance under any program or
9 activity or any program or activity conducted by any
10 Executive agency or by the United States Postal
11 Service shall be liable for harassment on the basis
12 of disability as follows:

13 “(A) HARASSMENT BY AGENTS, EMPLOY-
14 EES, AND OTHER PERSONS AUTHORIZED BY
15 THE RECIPIENT TO PROVIDE AID, BENEFITS,
16 OR SERVICES UNDER THE RECIPIENT’S PRO-
17 GRAMS OR ACTIVITIES.—A recipient is liable if
18 its agent, employee, or other person authorized
19 by the recipient to provide aid, benefit, or serv-
20 ice under the recipient’s program or activity,
21 engages in harassment on the basis of disability
22 against a person who participates in or receives
23 any benefit, service, or opportunity from such
24 program or activity, or who attempts to receive

1 such benefit, service, or activity, regardless of
2 where the harassment occurs, if—

3 “(i) the harassment is enabled or as-
4 sisted by the authority exercised as an
5 agent, employee, or other authorized per-
6 son of the recipient; or

7 “(ii) the recipient receives notice of
8 the harassment.

9 “(B) HARASSMENT BY NON-AGENTS, NON-
10 EMPLOYEES, AND OTHER NON-AUTHORIZED
11 PERSONS.—A recipient is liable for harassment
12 on the basis of disability if a person who is not
13 its agent, employee, or other authorized person,
14 engages in harassment on the basis of disability
15 against a person who is participating in or re-
16 ceiving any benefit, service, or opportunity
17 under such program or activity, or who is at-
18 tempting to do so, regardless of where the har-
19 assment occurs, if the recipient receives notice
20 of the harassment.

21 “(2) AFFIRMATIVE DEFENSE.—

22 “(A) IN GENERAL.—A recipient is not lia-
23 ble in a private action for damages under para-
24 graph (1) for harassment on the basis of dis-
25 ability, if the recipient demonstrates that it ex-

1 ercised reasonable care to prevent harassment
2 on the basis of disability, and promptly remedy
3 the effects of the harassment at issue, including
4 through a demonstration by the recipient that
5 it—

6 “(i) established, adequately publicized,
7 and enforced an effective and comprehen-
8 sive harassment prevention policy, training,
9 and complaint procedure that is likely to
10 provide redress and avoid harm without ex-
11 posing the person subjected to the harass-
12 ment to undue risk, effort, or expense;

13 “(ii) if requested by such person,
14 third party, or otherwise necessary to pro-
15 tect that person or other persons within
16 the program or activity from a significant
17 ongoing threat, undertook a prompt, thor-
18 ough, and impartial investigation of the
19 harassment at issue;

20 “(iii) provided supportive measures
21 that had the purpose and effect of pre-
22 serving and restoring the aggrieved per-
23 son’s equal access to the benefits or oppor-
24 tunities of the program or activity, regard-

1 less of whether the aggrieved person re-
2 quested an investigation; and

3 “(iv) took other necessary, immediate,
4 and appropriate corrective action designed
5 to stop the harassment and remedy its ef-
6 fects.

7 “(B) NOT ESTABLISHING REASONABLE
8 CARE.—A showing that the harassment did not
9 recur after the recipient received notice of the
10 harassment does not establish reasonable care
11 absent the demonstration required by clauses
12 (i) through (iv) of subparagraph (A).

13 “(3) NOTICE.—A recipient receives notice of
14 harassment on the basis of disability when any of
15 the following individuals knew or, in the exercise of
16 reasonable care, should have known about the har-
17 assment:

18 “(A) An agent, employee, or other author-
19 ized person of the recipient who has the author-
20 ized person of the recipient who has the author-
21 ity to take action to redress the harassment.

22 “(B) An agent, employee, or other author-
23 ized person of the recipient who has the respon-
24 sibility to report to an administrator harass-
ment or similar misconduct by others.

1 “(C) An agent, employee, or other author-
2 ized person of the recipient to whom an indi-
3 vidual has made a report of harassment based
4 on the reasonable belief that the agent, em-
5 ployee, or other authorized person is an indi-
6 vidual described in subparagraph (A) or (B).

7 “(4) DEFINITIONS.—In this subsection:

8 “(A) HARASSMENT ON THE BASIS OF DIS-
9 ABILITY.—The term ‘harassment on the basis
10 of disability’ means a form of discrimination on
11 the basis of disability that alters a person’s
12 ability to participate in or receive any benefit,
13 service, or opportunity under a program or ac-
14 tivity receiving Federal financial assistance or
15 any program or activity conducted by any Exec-
16 utive agency or by the United States Postal
17 Service, including by creating an intimidating,
18 hostile, or offensive environment.

19 “(B) RECIPIENT.—The term ‘recipient’
20 means an entity described in any of paragraphs
21 (1) through (4) of subsection (b), any entity
22 that exercises controlling authority over such an
23 entity, and any Executive agency or the United
24 States Postal Service.”.

1 (b) REMEDIES AND RIGHT OF ACTION.—Section 505
2 of the Rehabilitation Act of 1973 (29 U.S.C. 794a) is
3 amended—

4 (1) in subsection (a)(2), by inserting at the end
5 the following: “Any person aggrieved by the failure
6 of a recipient to comply with section 504, including
7 any regulation promulgated pursuant to such sec-
8 tion, may bring a civil action in any court of com-
9 petent jurisdiction.”; and

10 (2) by amending subsection (b) to read as fol-
11 lows:

12 “(b) ATTORNEY AND EXPERT FEES AND RIGHT OF
13 RECOVERY.—

14 “(1) IN GENERAL.—In any action or proceeding
15 to enforce or charge a violation of a provision of this
16 title, including any regulation promulgated pursuant
17 to this title, the court, in its discretion, may allow
18 the prevailing party, other than the United States,
19 a reasonable attorney’s fee and expert fees as part
20 of the costs.

21 “(2) RIGHT OF RECOVERY.—In an action
22 brought against a recipient by (including on behalf
23 of) an aggrieved person, the aggrieved person may
24 recover equitable and legal relief (such as compen-
25 satory damages, including for emotional distress,

1 and punitive damages), and attorney’s fees (includ-
2 ing expert fees).”.

3 **SEC. 103. AMENDMENTS TO TITLE VI OF THE CIVIL RIGHTS**

4 **ACT OF 1964.**

5 Section 602 of the Civil Rights Act of 1964 (42
6 U.S.C. 2000d–1) is amended—

7 (1) by striking “Each Federal department” in-
8 serting the following subsection:

9 “(a) IN GENERAL.—Each Federal department”; and

10 (2) by adding at the end the following new sub-
11 section:

12 “(b) PROHIBITION OF HARASSMENT AS DISCRIMINA-
13 TION.—

14 “(1) LIABILITY FOR HARASSMENT BASED ON
15 RACE, COLOR, OR NATIONAL ORIGIN.—In an action
16 pursuant to subsection (c) of this section, a recipient
17 shall be liable for harassment on the basis of race,
18 color, or national origin as follows:

19 “(A) HARASSMENT BY AGENTS, EMPLOY-
20 EES, AND OTHER PERSONS AUTHORIZED BY
21 THE RECIPIENT TO PROVIDE AID, BENEFITS,
22 OR SERVICES UNDER THE RECIPIENT’S PRO-
23 GRAMS OR ACTIVITIES.—Subject to subpara-
24 graph (C), a recipient is liable if its agent, em-
25 ployee, or other person authorized by the recipi-

1 ent to provide aid, benefit, or service under the
2 recipient's program or activity, engages in har-
3 assment on the basis of race, color, or national
4 origin against a person who participates in or
5 receives any benefit, service, or opportunity
6 from such program or activity, or who attempts
7 to receive such benefit, service, or opportunity,
8 regardless of where the harassment occurs, if—

9 “(i) the harassment is enabled or as-
10 sisted by the authority exercised as an em-
11 ployee, agent, or other authorized person
12 of the recipient; or

13 “(ii) the recipient receives notice of
14 the harassment.

15 “(B) HARASSMENT BY NON-AGENTS, NON-
16 EMPLOYEES, AND OTHER NON-AUTHORIZED
17 PERSONS.—Subject to subparagraph (C), a re-
18 cipient is liable for harassment on the basis of
19 race, color, or national origin if a person who
20 is not its agent, employee, or other authorized
21 person, engages in harassment on the basis of
22 race, color, or national origin against a person
23 who is participating in or receiving any benefit,
24 service, or opportunity from a program or activ-
25 ity receiving Federal financial assistance, or

1 who is attempting to do so, regardless of where
2 the harassment occurs, if the recipient receives
3 notice of the harassment.

4 “(C) AFFIRMATIVE DEFENSE.—

5 “(i) IN GENERAL.—A recipient is not
6 liable in a private action for damages
7 under subparagraph (A) or (B) for harass-
8 ment on the basis of race, color, or na-
9 tional origin, if the recipient demonstrates
10 that it exercised reasonable care to prevent
11 harassment on the basis of race, color, or
12 national origin, and promptly remedied the
13 effects of the harassment at issue, includ-
14 ing through a demonstration by the recipi-
15 ent that it—

16 “(I) established, adequately pub-
17 licized, and enforced an effective and
18 comprehensive harassment prevention
19 policy, training, and complaint proce-
20 dure that is likely to provide redress
21 and avoid harm without exposing the
22 person subjected to the harassment to
23 undue risk, effort, or expense;

24 “(II) if requested by such person,
25 or otherwise necessary to protect that

1 person or other persons within the
2 program or activity from a significant
3 ongoing threat, undertook a prompt,
4 thorough, and impartial investigation
5 of the harassment at issue;

6 “(III) provided supportive meas-
7 ures that had the purpose and effect
8 of preserving and restoring the ag-
9 grievéd person’s equal access to the
10 benefits or opportunities of the pro-
11 gram or activity receiving Federal fi-
12 nancial assistance, regardless of
13 whether the aggrieved person re-
14 quested an investigation; and

15 “(IV) took other necessary,
16 prompt, and appropriate corrective ac-
17 tion designed to stop the harassment
18 and remedy its effects.

19 “(ii) NOT ESTABLISHING REASON-
20 ABLE CARE.—A showing that the harass-
21 ment did not recur after the recipient re-
22 ceived notice of the harassment does not
23 establish reasonable care absent the dem-
24 onstration required by subclauses (I), (II),
25 (III), and (IV) of clause (i).

1 “(D) NOTICE.—A recipient receives notice
2 of harassment on the basis of race, color, or na-
3 tional origin when any of the following individ-
4 uals knew or, in the exercise of reasonable care,
5 should have known about the harassment:

6 “(i) An agent, employee, or other au-
7 thorized person of the recipient who has
8 the authority to take action to redress the
9 harassment.

10 “(ii) An agent, employee, or other au-
11 thorized person of the recipient who has
12 the responsibility to report to an adminis-
13 trator harassment or similar misconduct by
14 others.

15 “(iii) An agent, employee, or other au-
16 thorized person of the recipient to whom
17 an individual has made a report of harass-
18 ment based on the reasonable belief that
19 the agent, employee, or other authorized
20 person is an individual described in clause
21 (i) or (ii).

22 “(2) DEFINITIONS.—In this section:

23 “(A) HARASSMENT ON THE BASIS OF
24 RACE, COLOR, OR NATIONAL ORIGIN.—The term
25 ‘harassment on the basis of race, color, or na-

1 tional origin’ means a form of discrimination on
2 the basis of race, color, or national origin that
3 alters a person’s ability to participate in or re-
4 ceive any benefit, service, or opportunity from a
5 program or activity receiving Federal financial
6 assistance, including by creating an intimi-
7 dating, hostile, or offensive environment.

8 “(B) RECIPIENT.—The term ‘recipient’
9 means an entity described in any of paragraphs
10 (1) through (4) of section 606, and any entity
11 that exercises controlling authority over such
12 entities.

13 “(c) REMEDIES AND RIGHT OF ACTION.—

14 “(1) IN GENERAL.—Any person aggrieved by
15 the failure of a recipient to comply with this title,
16 including any regulation promulgated pursuant to
17 this title, may bring a civil action in any court of
18 competent jurisdiction.

19 “(2) RIGHT OF RECOVERY.—In an action
20 brought against a recipient by or on behalf of an ag-
21 grieved person, the aggrieved person may recover eq-
22 uitable and legal relief (such as compensatory dam-
23 ages, including for emotional distress, and punitive
24 damages), and attorney’s fees (including expert
25 fees).”.

1 **SEC. 104. AMENDMENTS TO THE AGE DISCRIMINATION ACT**
 2 **OF 1975.**

3 (a) IN GENERAL.—Section 303 of the Age Discrimi-
 4 nation Act of 1975 (42 U.S.C. 6102) is amended—

5 (1) by inserting “(a) IN GENERAL.— ” before
 6 “Pursuant”; and

7 (2) by adding at the end the following:

8 “(b) LIABILITY.—

9 “(1) HARASSMENT BY AGENTS, EMPLOYEES,
 10 AND OTHER PERSONS AUTHORIZED BY THE RECIPI-
 11 ENT TO PROVIDE AID, BENEFITS, OR SERVICES
 12 UNDER THE RECIPIENT’S PROGRAMS AND ACTIVI-
 13 TIES.—Subject to subsection (c), a recipient that re-
 14 ceives Federal financial assistance for a program or
 15 activity is liable if its agent, employee, or other per-
 16 son authorized by the recipient to provide aid, ben-
 17 efit, or service under the recipient’s program or ac-
 18 tivity, engages in age-based harassment against a
 19 person who participates in or receives any benefit,
 20 service, or opportunity from such program or activ-
 21 ity, or who attempts to receive such benefit, service,
 22 or opportunity, regardless of where the harassment
 23 occurs, if—

24 “(A) the harassment is enabled or assisted
 25 by the authority exercised as an employee,

1 agent, or other authorized person of the recipi-
2 ent; or

3 “(B) the recipient receives notice of the
4 harassment.

5 “(2) HARASSMENT BY NON-AGENTS, NON-EM-
6 PLOYEES, AND OTHER NON-AUTHORIZED PER-
7 SONS.—Subject to subsection (c), a recipient that re-
8 ceives Federal financial assistance for a program or
9 activity is liable for age-based harassment if a per-
10 son who is not its agent, employee, or other author-
11 ized person, engages in age-based harassment
12 against a person who is participating in or receiving
13 any benefit, service, or opportunity from such pro-
14 gram or activity, or who is attempting to do so, re-
15 gardless of where the harassment occurs, if the re-
16 cipient receives notice of the harassment.

17 “(c) AFFIRMATIVE DEFENSE.—

18 “(1) IN GENERAL.—A recipient is not liable in
19 a private action for damages under subsection (b)
20 for age-based harassment if it demonstrates that it
21 exercised reasonable care to prevent age-based har-
22 assment and to promptly remedy the effects of the
23 age-based harassment at issue, including through a
24 demonstration by the recipient that it—

1 “(A) established, adequately publicized,
2 and enforced an effective and comprehensive
3 age-based harassment prevention policy, train-
4 ing, and complaint procedure that is likely to
5 provide redress and to avoid harm without ex-
6 posing the person subjected to such harassment
7 to undue risk, effort, or expense;

8 “(B) if requested by the aggrieved person,
9 or otherwise necessary to protect such person or
10 other persons in such program or activity from
11 a significant ongoing threat of harm, undertook
12 a prompt, thorough, and impartial investigation
13 of such harassment;

14 “(C) provided supportive measures that
15 have the purpose and effect of preserving and
16 restoring an aggrieved person’s equal access to
17 the benefits, services, or opportunities of the
18 program or activity involved, regardless of
19 whether such person requests an investigation;
20 and

21 “(D) took other necessary, immediate, and
22 appropriate corrective action designed to stop
23 such harassment and remedy its effects.

24 “(2) NOT ESTABLISHING REASONABLE CARE.—

25 A showing that the harassment did not recur after

1 the recipient receives notice of the harassment does
2 not establish reasonable care absent the demonstra-
3 tion required by subparagraphs (A) through (D) of
4 paragraph (1).

5 “(d) NOTICE.—A recipient receives notice of age-
6 based harassment if an agent, employee, or other author-
7 ized person of the recipient knew, or in the exercise of
8 reasonable care should have known, about the harassment
9 and—

10 “(1) has the authority to take action to redress
11 the harassment;

12 “(2) has the responsibility to report to an ad-
13 ministrator harassment or similar misconduct by
14 others; or

15 “(3) receives a report of such harassment from
16 an individual who could reasonably believe that the
17 agent, employee, or other authorized person is as de-
18 scribed in paragraph (1) or (2).”.

19 (b) CONFORMING AMENDMENT.—Section 304(b) of
20 the Age Discrimination Act of 1975 (42 U.S.C. 6103(b))
21 is amended—

22 (1) in paragraph (1), by striking “It shall” and
23 inserting “Subject to section 305(h)(3), it shall”;
24 and

1 (2) in paragraph (2), by striking “The provi-
2 sions” and inserting “Subject to section 305(h)(3),
3 the provisions”.

4 (c) REMEDIES AND RIGHT OF ACTION.—Section 305
5 of the Age Discrimination Act of 1975 (42 U.S.C. 6104)
6 is amended by adding at the end the following:

7 “(g) Any person aggrieved by the failure of a recipi-
8 ent to comply with this title, or a rule issued under this
9 title—

10 “(1) may bring a civil action in any court of
11 competent jurisdiction; and

12 “(2) notwithstanding subsection (e), may re-
13 cover equitable and legal relief (such as compen-
14 satory damages, including for emotional distress,
15 and punitive damages), and attorney’s fees (includ-
16 ing expert fees).

17 “(h) Notwithstanding any other provision of this sec-
18 tion, in the case of alleged age-based harassment in a pro-
19 gram or activity of an entity described in subparagraph
20 (B) of section 309(4)—

21 “(1) an aggrieved person shall not be required
22 to exhaust administrative remedies;

23 “(2) the relief described in subsection (g)(2)
24 shall be available; and

1 “(3) the provisions of paragraph (1) and (2) of
2 section 304(b) shall not apply.”.

3 (d) DEFINITIONS.—Section 309 of the Age Discrimi-
4 nation Act of 1975 (42 U.S.C. 6107) is amended—

5 (1) in paragraph (3), by striking “and” after
6 the semicolon;

7 (2) in paragraph (4), by striking the period and
8 inserting a semicolon; and

9 (3) by adding at end the following:

10 “(5) the term ‘age-based harassment’ means a
11 form of prohibited discrimination on the basis of an
12 individual’s age that alters a person’s ability to par-
13 ticipate in or receive any benefit, service, or oppor-
14 tunity from a program or activity receiving Federal
15 financial assistance; and

16 “(6) the term ‘recipient’ means an entity de-
17 scribed in any of subparagraph (A), (B), (C), or (D)
18 of paragraph (4), and includes any entity that exer-
19 cises controlling authority over such entity.”.

20 **TITLE II—TRANSPARENCY,**
21 **TRAINING, AND SUPPORT**
22 **FOR STUDENTS**

23 **SEC. 201. DEPARTMENT OF EDUCATION ENFORCEMENT.**

24 (a) DISCLOSURE OF ENFORCEMENT ACTIONS.—

1 (1) AMENDMENT.—The Department of Edu-
2 cation Organization Act (20 U.S.C. 3401 et seq.) is
3 amended—

4 (A) in section 203(b), by adding at the end
5 the following new paragraphs:

6 “(3) The Assistant Secretary for Civil Rights
7 shall make publicly available on the Department’s
8 website a list of each recipient of Federal financial
9 assistance from the Department that is under inves-
10 tigation for a possible violation of any civil rights
11 law that the Department enforces, the sanctions (if
12 any) or findings issued pursuant to such investiga-
13 tion, and a copy of the final resolution letter, includ-
14 ing resolution agreements, entered into by such re-
15 cipient with the Secretary under any of the civil
16 rights laws enforced by the Department. Any docu-
17 ment made publicly available shall have personally
18 identifiable information redacted from it.

19 “(4) Not later than 30 days after the termi-
20 nation of any resolution agreement described in
21 paragraph (3), the Assistant Secretary for Civil
22 Rights shall transmit to the President and the Con-
23 gress, and make publicly available on the Depart-
24 ment’s website, the letter terminating the Depart-

1 ment of Education’s monitoring of such agree-
2 ment.”; and

3 (B) in section 205, by adding at the end
4 the following new subsection:

5 “(c) Notwithstanding section 498A(b)(8) of the
6 Higher Education Act of 1965, the Assistant Secretary
7 for Postsecondary Education shall make publicly available
8 on the Department’s website a list of each institution
9 under investigation for a possible violation of section
10 485(f) of the Higher Education Act of 1965, the sanctions
11 (if any) or findings issued pursuant to such investigation,
12 and a copy of program reviews and resolution agreements
13 entered into by such institution with the Secretary. Any
14 document made publicly available shall have personally
15 identifiable information redacted from it.”.

16 (2) INSPECTOR GENERAL.—Not later than one
17 year after the date of enactment of this Act, the In-
18 spector General of the Department of Education
19 shall submit to Congress and make publicly available
20 a report reviewing compliance with paragraphs (3)
21 and (4) of section 203(b) of the Department of Edu-
22 cation Organization Act (20 U.S.C. 3413(b)) and
23 subsection (c) of section 205 of such Act (20 U.S.C.
24 3415), as added by paragraph (1).

1 (b) AUTHORITY TO LEVY FINES.—Section 203(c) of
 2 the Department of Education Organization Act (20
 3 U.S.C. 3413(c)) is amended—

4 (1) in paragraph (3), by striking “and” after
 5 the semicolon;

6 (2) in paragraph (4), by striking the period at
 7 the end and inserting “; and”; and

8 (3) by adding at the end the following new
 9 paragraph:

10 “(5) to impose a civil penalty to be paid by a
 11 recipient of Federal funds that has violated a law
 12 under the jurisdiction of the Office for Civil Rights,
 13 the amount of which shall be determined by the
 14 gravity and magnitude of the violation, and the im-
 15 position of which shall not preclude other remedies
 16 available under Federal law.”.

17 **SEC. 202. DISCLOSURE OF RELIGIOUS EXEMPTIONS FROM**
 18 **TITLE IX OF THE EDUCATION AMENDMENTS**
 19 **OF 1972.**

20 (a) AMENDMENT TO HIGHER EDUCATION ACT OF
 21 1965.—Section 485 of the Higher Education Act of 1965
 22 (20 U.S.C. 1092) is amended by adding at the end the
 23 following:

24 “(n) DISCLOSURE OF RELIGIOUS EXEMPTIONS FROM
 25 TITLE IX OF THE EDUCATION AMENDMENTS OF 1972.—

1 Each institution of higher education receiving Federal
2 funds participating in any program under this title that
3 claims or intends to exercise a religious exemption to the
4 requirements of title IX of the Education Amendments of
5 1972 shall submit in writing to the Assistant Secretary
6 for Civil Rights a statement by the highest ranking official
7 of the institution of higher education, identifying the pro-
8 visions of part 106 of title 34, Code of Federal Regula-
9 tions, the application of which may conflict with a specific
10 tenet of the religious organization that controls the insti-
11 tutions of higher education and shall publish on its
12 website, in a prominent location, the following:

13 “(1) REQUEST LETTER.—Each letter submitted
14 by the institution to the Department to request such
15 an exemption.

16 “(2) EXEMPTION LETTER.—Each letter from
17 the Department to the institution that responds to
18 a request for assurance of such an exemption.

19 “(3) NOTICE OF REQUEST.—Notice that the in-
20 stitution has requested acknowledgment of such an
21 exemption under section 901(a)(3) of the Education
22 Amendments of 1972.

23 “(4) NOTICE OF EXEMPTION.—If applicable,
24 notice that the institution has received acknowledg-

1 ment of such an exemption under section 901(a)(3)
2 of the Education Amendments of 1972.

3 “(5) COVERED APPLICATIONS.—A list of the
4 specific applications of statutory or regulatory provi-
5 sions for which there is an applicable requested or
6 granted exemption, including any personal charac-
7 teristics or behaviors to which each requested or
8 granted exemption applies.

9 “(6) SCOPE OF EXEMPTION.—A list of each
10 statutory and regulatory provision with respect to
11 which there is an application from which the institu-
12 tion has claimed an exemption and the scope of such
13 exemption.”.

14 (b) DISCLOSURES OF REQUESTS FOR EXEMP-
15 TIONS.—Section 203 of the Department of Education Or-
16 ganization Act (20 U.S.C. 3413) is amended by adding
17 at the end the following:

18 “(d) The Assistant Secretary for Civil Rights shall
19 publish, on the Department’s website, in a prominent loca-
20 tion, information regarding religious exemptions to the re-
21 quirements of title IX of the Education Amendments of
22 1972, including the name of each recipient of Federal fi-
23 nancial assistance from the Department that claims an ex-
24 emption, whether that recipient received an acknowledg-
25 ment of such exemption from the Assistant Secretary, and

1 a description of the nature and scope of that exemption
2 (including each provision of the statute or regulations with
3 respect to which there is an application from which the
4 recipient has claimed an exemption, the scope of applica-
5 tions for which the exemption was claimed, and justifica-
6 tion for the exemption).”.

7 **SEC. 203. CLIMATE SURVEYS FOR K-12 SCHOOLS.**

8 (a) IN GENERAL.—The Secretary, in consultation
9 with the Attorney General, the Director of the Centers for
10 Disease Control and Prevention, the Secretary of Health
11 and Human Services, and experts in domestic violence,
12 dating violence, sexual assault, disability, sexual harass-
13 ment, and stalking, shall, in accordance with applicable
14 privacy laws, develop, design, and make available through
15 a secure and accessible online portal, a standardized online
16 survey tool regarding the experience of elementary school
17 and secondary school students with domestic violence, dat-
18 ing violence, sexual assault, sexual harassment, and stalk-
19 ing.

20 (b) DEVELOPMENT OF SURVEY TOOL.—In devel-
21 oping the survey tool required under subsection (a), the
22 Secretary shall—

23 (1) use best practices from peer-reviewed re-
24 search measuring domestic violence, dating violence,
25 sexual assault, sexual harassment, and stalking;

1 (2) consult with the education community, ex-
2 perts in survey research related to domestic violence,
3 dating violence, sexual assault, sexual harassment,
4 and stalking, and organizations engaged in the pre-
5 vention of and response to, and advocacy on behalf
6 of victims of, domestic violence, dating violence, sex-
7 ual assault, sexual harassment, and stalking regard-
8 ing the development and design of such survey tool
9 and the methodology for administration of such sur-
10 vey tool;

11 (3) provide opportunity for stakeholder feed-
12 back through public listening sessions or a 30-day
13 open comment period;

14 (4) ensure that the survey tool is readily acces-
15 sible to and usable by individuals with disabilities
16 and publicly accessible in multiple languages, acces-
17 sibility formats, and provided in a language that
18 parents, family, and community members can under-
19 stand; and

20 (5) ensure that the survey questions are dif-
21 ferent for staff and students and for different age
22 groups in order to ensure that the questions are de-
23 velopmentally appropriate.

24 (c) ELEMENTS.—

1 (1) IN GENERAL.—The survey tool developed
2 pursuant to this section shall be fair and unbiased,
3 be scientifically valid and reliable, and meet the
4 highest standards of survey research.

5 (2) SURVEY QUESTIONS.—Survey questions in-
6 cluded in the survey tool developed pursuant to this
7 section shall—

8 (A) be designed to gather information on
9 student experiences with domestic violence, dat-
10 ing violence, sexual assault, sexual harassment,
11 and stalking, including the experiences of vic-
12 tims of such incidents;

13 (B) use trauma-informed language to pre-
14 vent retraumatization; and

15 (C) include age-appropriate questions—

16 (i) that give students the option to re-
17 port their demographic information;

18 (ii) designed to determine the inci-
19 dence and prevalence of domestic violence,
20 dating violence, sexual assault, sexual har-
21 assment, and stalking whether the incident
22 occurred on or off campus, and whether
23 carried out in whole or in part through the
24 use of electronic messaging services, com-

- 1 merchial mobile services, electronic commu-
2 nications, or other technology;
- 3 (iii) regarding whether students know
4 about institutional policies and procedures
5 related to domestic violence, dating vio-
6 lence, sexual assault, sexual harassment,
7 and stalking;
- 8 (iv) designed to determine, if com-
9 plainants reported domestic violence, dat-
10 ing violence, sexual assault, sexual harass-
11 ment, or stalking—
- 12 (I) to whom the incident was re-
13 ported and what response, including
14 any supportive measures, the com-
15 plainant may have received;
- 16 (II) whether the complainant was
17 informed of, or referred to, national,
18 State, local, or on-site resources; and
- 19 (III) whether the entity to whom
20 the complainant reported the incident
21 conducted an investigation and the
22 duration and final resolution of such
23 an investigation;

1 (v) regarding contextual factors, such
2 as whether force, incapacitation, or coer-
3 cion was involved;

4 (vi) to determine whether an accused
5 individual was a student, faculty, staff, ad-
6 ministrator, or third-party vendor at the
7 elementary school or secondary school in
8 which the complainant is enrolled or an-
9 other school served by the local educational
10 agency that serves the elementary school
11 or secondary school;

12 (vii) to determine whether a complain-
13 ant reported an incident to State, local, or
14 school-based law enforcement;

15 (viii) to determine why the complain-
16 ant chose to report or not report an inci-
17 dent to the school or local educational
18 agency or State or local law enforcement;

19 (ix) to determine the impact of domes-
20 tic violence, dating violence, sexual assault,
21 sexual harassment, and stalking on the
22 complainant's education, including dimin-
23 ished grades, dropped classes, leaves of ab-
24 sence, and negative financial consequences

1 (including costs associated with counseling,
2 medical services, or housing changes);

3 (x) to determine if a complainant was
4 punished in connection with reporting the
5 incident or for ancillary behavior related to
6 the incident (such as punishment for miss-
7 ing class because of mental health impacts
8 for fear of perpetrator, being placed on
9 academic probation for declining grades re-
10 lated to trauma following incident, and
11 more);

12 (xi) to determine the impact and ef-
13 fectiveness of prevention and awareness
14 programs and complaints processes for the
15 overall student body and different student
16 populations, including—

17 (I) students of color;

18 (II) LGBTQI+ students;

19 (III) immigrant students;

20 (IV) pregnant, expectant, or par-
21 enting students; or

22 (V) students with disabilities;

23 and

24 (xii) to determine attitudes toward
25 sexual violence and harassment, including

1 the willingness of individuals to intervene
2 as a bystander of sex-based (including on
3 the basis of sex stereotypes, pregnancy,
4 childbirth or a related medical condition,
5 sexual orientation and gender identity, or
6 sex characteristics), race-based, national
7 origin-based, and disability-based discrimi-
8 nation, harassment, assault, domestic vio-
9 lence, dating violence, sexual assault, sex-
10 ual harassment, and stalking.

11 (3) ADDITIONAL TOPICS.—States and local edu-
12 cational agencies may add additional questions to
13 the survey tool developed pursuant to this section as
14 they determine appropriate.

15 (d) ADDITIONAL ELEMENTS.—In addition to the
16 standardized questions developed by the Secretary under
17 subsection (c), an elementary school or secondary school
18 may request additional information from students that
19 would increase the documentation, through qualitative and
20 quantitative evidence of the elementary school or sec-
21 ondary school of school climate factors unique to the
22 school.

23 (e) RESPONSES.—The responses to the survey ques-
24 tions described in subsection (c) shall—

25 (1) be submitted confidentially; and

1 (2) in the case of such responses being included
2 in a report described in subsection (g), not include
3 personally identifiable information.

4 (f) ADMINISTRATION OF SURVEY.—

5 (1) FEDERAL ADMINISTRATION.—The Sec-
6 retary, in consultation with the Attorney General,
7 the Director of the Centers for Disease Control and
8 Prevention, and Secretary of Health and Human
9 Services, shall develop a mechanism by which local
10 educational agencies may, with respect to the survey
11 tool developed pursuant to this section—

12 (A) administer such survey tool in compli-
13 ance with applicable privacy laws; and

14 (B) modify such survey tool to include ad-
15 ditional elements or requirements, as deter-
16 mined by the elementary school or secondary
17 school.

18 (2) COSTS.—The Secretary may not require a
19 local educational agency to pay to modify the survey
20 tool in accordance with paragraph (1)(B).

21 (3) ACCESSIBILITY.—The Secretary shall en-
22 sure that the survey tool is administered in such a
23 way as to be readily accessible to and usable by indi-
24 viduals with disabilities.

1 (4) ADMINISTRATION.—Beginning not later
2 than 1 year after the date on which the Secretary
3 makes available to local educational agencies the
4 mechanism described in paragraph (1), and every 2
5 years thereafter, each local educational agency that
6 receives Federal financial assistance (as such term is
7 defined in section 7501(a)(5) of title 31, United
8 States Code) shall administer the survey tool devel-
9 oped pursuant to this section.

10 (5) COMPLETED SURVEYS.—The Secretary
11 shall require each local educational agency that re-
12 ceives Federal financial assistance (as such term is
13 defined in section 7501(a)(5) of title 31, United
14 States Code) to ensure, to the maximum extent
15 practicable, that an adequate, random, and rep-
16 resentative sample size of students (as determined
17 by the Secretary) enrolled in the local educational
18 agency complete the survey tool developed pursuant
19 to this section.

20 (6) PERSONALLY IDENTIFIABLE INFORMA-
21 TION.—Information from the survey tool shall not be
22 disaggregated or reported if the number of students
23 in a category is insufficient to yield statistically reli-
24 able information or the results would reveal person-

1 ally identifiable information about an individual stu-
2 dent.

3 (g) REPORT.—Beginning not later than 2 years after
4 the date of enactment of this Act, and every 2 years there-
5 after, the Secretary shall, in accordance with applicable
6 privacy laws and in accordance with subsection (f)(6)—

7 (1) prepare a 2-year report on the information
8 gained from the standardized elements of the survey
9 under this section, which shall include school-level
10 data that permits comparisons across elementary
11 schools and secondary schools;

12 (2) publish such report in an accessible format
13 on the website of the Department of Education; and

14 (3) submit such report to Congress.

15 (h) PUBLICATION.—Each elementary school or sec-
16 ondary school shall publish, in accordance with applicable
17 privacy laws and with subsection (f)(6) and in a manner
18 that is readily accessible and usable by individuals, includ-
19 ing individuals with disabilities—

20 (1) the results of the standardized elements of
21 the survey under this section on the website of the
22 elementary school or secondary school; and

23 (2) the results of the additional elements modi-
24 fying the survey by the elementary school or sec-
25 ondary school, if any, on the school’s website.

1 (i) DEFINITIONS.—In this section:

2 (1) ESEA TERMS.—The terms “elementary
3 school”, “local educational agency”, and “secondary
4 school” have the meanings given the terms in section
5 8101 of the Elementary and Secondary Education
6 Act of 1965 (20 U.S.C. 7801).

7 (2) PERSONALLY IDENTIFIABLE INFORMA-
8 TION.—The term “personally identifiable informa-
9 tion” means, with respect to a student—

10 (A) the student’s name, whether given at
11 birth or time of adoption, or resulting from a
12 lawful change of name;

13 (B) the name of the student’s parent or
14 another family member;

15 (C) the address of the student or another
16 family member;

17 (D) a personal identifier, such as the stu-
18 dent’s social security number, student number,
19 or biometric record;

20 (E) another indirect identifier, such as the
21 student’s date of birth, place of birth, or moth-
22 er’s maiden name; and

23 (F) other information that, alone or in
24 combination, is linked or linkable to the student
25 that would allow a reasonable person in the

1 school community, who does not have personal
2 knowledge of the relevant circumstances, to
3 identify the student with reasonable certainty.

4 (3) SECRETARY.—The term “Secretary” means
5 the Secretary of Education.

6 (4) SEXUAL HARASSMENT.—The term “sexual
7 harassment” means any unwelcome conduct of a
8 sexual nature, regardless of whether it is direct or
9 indirect, or verbal or nonverbal (including conduct
10 that is undertaken in whole or in part, through the
11 use of electronic messaging services, commercial mo-
12 bile services, electronic communications, or other
13 technology), that unreasonably alters an individual’s
14 terms, benefits, or privileges of an education pro-
15 gram or activity, including by creating an intimi-
16 dating, hostile, or offensive environment, which takes
17 the form of—

18 (A) a sexual advance;

19 (B) a request for sexual favors;

20 (C) a sexual act, where such submission is
21 made either explicitly or implicitly a term or
22 condition of a program or activity at a school
23 or school activity, regardless of a student’s sub-
24 mission to or rejection of such sexual act;

1 (D) a sexual act, where such submission or
2 rejection is used as the basis for a decision af-
3 fecting a term or condition of a program or ac-
4 tivity at a school or school activity, regardless
5 of a student’s submission to or rejection of such
6 sexual act;

7 (E) other conduct of a sexual nature; or

8 (F) domestic violence, intimate partner vio-
9 lence (dating violence), and sex-based stalking.

10 **SEC. 204. CIVIL RIGHTS DATA COLLECTION.**

11 The Assistant Secretary of Education for Civil Rights
12 shall collect and publish within the Civil Rights Data Col-
13 lection, in addition to data already collected and in accord-
14 ance with section 444 of the General Education Provisions
15 Act (20 U.S.C. 1232g) (commonly known as the “Family
16 Educational Rights and Privacy Act of 1974”) and section
17 203(c)(1) of the Department of Education Organization
18 Act (20 U.S.C. 3413(c)(1)), data addressing—

19 (1) the prevalence of harassment based on race,
20 color, national origin, sex, and disability, as deter-
21 mined through reports made in schools; and

22 (2) the results of complaint procedures related
23 to such harassment in schools.

1 **SEC. 205. SUPPORT FOR STUDENTS.**

2 (a) STUDENT VICTIM SUPPORT AND RESOURCES.—

3 The Secretary of Education shall require Title IX Coordi-
4 nators and school administrators, upon receiving notice of
5 possible sex-based harassment, to notify the complainant
6 in writing and orally, about available assistance to support
7 the complainant of sexual harassment and ensure the com-
8 plainant's continued and equal access to education, re-
9 gardless of the location of the harassment, including—

10 (1) academic adjustment or other accommoda-
11 tions, such as adapting course schedules, assign-
12 ments, or tests, issuing no-contact orders, altering
13 housing, or taking other measures to ensure the
14 complainant's access to educational opportunities is
15 not interrupted after a report has been made or dur-
16 ing a grievance process;

17 (2) information about and access to support
18 services for the complainant, such as counseling,
19 mental health and other health services, and dis-
20 ability accommodations;

21 (3) providing increased monitoring or super-
22 vision at locations or activities where the misconduct
23 occurred or may have occurred; and

24 (4) reasonable accommodations for complain-
25 ants and respondents with disabilities, including pre-
26 existing disabilities and disabilities arising out of

1 sex-based harassment, consistent with laws that pro-
2 tect students with disabilities, including section 504
3 of the Rehabilitation Act of 1973 (29 U.S.C. 794),
4 the Americans with Disabilities Act of 1990 (42
5 U.S.C. 12101 et seq.), and the Individuals with Dis-
6 abilities Education Act (20 U.S.C. 1400 et seq.).

7 (b) PROTECTION FOR STUDENT VICTIMS AND RE-
8 PORTING PARTIES.—Working in collaboration with the
9 Title IX Coordinator, institutions of higher education and
10 local educational agencies shall issue guidance and dis-
11 seminate guidance that explicitly address protections for
12 students from punishment or retaliation when making re-
13 ports of sexual harassment. Guidance shall be issued to
14 all persons who participate in or receive any benefit, serv-
15 ice, or opportunity from the issuing institution of higher
16 education or local educational agency. Such guidance shall
17 apply to all reports of harassment, including in the context
18 of a same-gender relationship or encounter, and ensure
19 that for all reports of sexual harassment—

20 (1) the school will not take disciplinary action
21 against individuals, including witnesses, disclosing
22 code-of-conduct offenses that are related to the re-
23 ported incident, including the use of intoxicating
24 substances occurring at or around the time of a re-
25 ported incident, reasonable actions taken to defend

1 against harassment, or actions taken to avoid con-
2 tact with the respondent;

3 (2) if a school's code-of-conduct prohibits sexual
4 activity (or certain forms of sexual activity), the
5 school will not take disciplinary action against indi-
6 viduals disclosing in good faith (including witnesses)
7 non-harassing sexual activity related to the reported
8 incident, or for other non-harassing sexual activity
9 discovered during an investigation into the reported
10 incident;

11 (3) the Title IX Coordinator shall review any
12 disciplinary actions related to a complaint of harass-
13 ment to ensure that such actions do not further dis-
14 criminate or harass a complainant (such as requir-
15 ing therapy or participation in programming focused
16 on altering a student's sexual orientation or gender
17 identity);

18 (4) a party who reports harassment shall not be
19 disciplined for a "false report" or for prohibited sex-
20 ual conduct solely because the school has decided
21 there is insufficient evidence for a finding of respon-
22 sibility or because the respondent is found not re-
23 sponsible; and

1 (5) the school will address reports of retaliation
2 against complainants, which may include investiga-
3 tion or discipline for retaliation.

4 (c) DEFINITIONS.—In this section:

5 (1) ESEA TERMS.—The terms “elementary
6 school”, “local educational agency”, and “secondary
7 school” have the meanings given the terms in section
8 8101 of the Elementary and Secondary Education
9 Act of 1965 (20 U.S.C. 7801).

10 (2) INSTITUTION OF HIGHER EDUCATION.—The
11 term “institution of higher education” has the
12 meaning given the term in section 102 of the Higher
13 Education Act of 1965 (20 U.S.C. 1002).

14 (3) SEXUAL HARASSMENT.—The term “sexual
15 harassment” has the meaning given the term in sec-
16 tion 203(i).

17 (4) TITLE IX COORDINATOR.—The term “Title
18 IX Coordinator” means the employee of a recipient
19 of Federal financial assistance (as such term is de-
20 fined in section 7501(a)(5) of title 31, United States
21 Code) from the Department of Education, des-
22 ignated or authorized to coordinate the recipient’s
23 efforts to comply with its obligations under title IX
24 of the Education Amendments of 1972 (20 U.S.C.
25 1681 et seq.).

1 **SEC. 206. TITLE IX COORDINATORS AND TRAINING RE-**
2 **QUIREMENTS.**

3 (a) DUTIES AND SCOPE OF TITLE IX COORDINA-
4 TORS.—

5 (1) IN GENERAL.—For each local educational
6 agency or institution of higher education that re-
7 ceives Federal financial assistance from the Depart-
8 ment of Education, the following requirements shall
9 apply as a condition on continued receipt of such as-
10 sistance:

11 (A) The recipient shall designate at least
12 one full-time equivalent employee to serve as a
13 Title IX Coordinator per institution of higher
14 education, per 75,000 students in 7th grade or
15 above served by the local educational agency,
16 and per 150,000 students in 6th grade or below
17 served by the local educational agency.

18 (B) The local educational agency or insti-
19 tution of higher education shall ensure students
20 and staff are made aware of the Title IX Coor-
21 dinator, the role of the Title IX Coordinator,
22 and the time at which the Title IX Coordinator
23 is available to meet.

24 (C) The Title IX Coordinator shall not
25 have any other school-related responsibilities
26 that may create a conflict of interest.

1 (2) DUTIES.—Each Title IX Coordinator for a
2 local educational agency or institution of higher edu-
3 cation shall ensure compliance under Federal, State,
4 and local laws and policies against sex discrimina-
5 tion, including title IX of the Education Amend-
6 ments of 1972 (20 U.S.C. 1681 et seq.), by doing
7 the following:

8 (A) Ensuring that every individual affected
9 by the operations of the local educational agen-
10 cy or institution of higher education, including
11 students, employees, and applicants for admis-
12 sion or employment, and where appropriate,
13 parents and guardians, are aware of their
14 rights under Federal, State, and local laws and
15 policies against sex discrimination, including
16 under title IX of the Education Amendments of
17 1972, and that the local educational agency or
18 institution of higher education and its employ-
19 ees comply with those laws and policies, includ-
20 ing receiving training on the laws and policies.

21 (B) Ensuring that notices of non-
22 discrimination, relevant policies and grievance
23 procedures, and current contact information of
24 all Title IX Coordinators are disseminated
25 broadly and in an age-appropriate and acces-

1 sible manner to all students, employees, and ap-
2 plicants for admission or employment, and
3 where appropriate, parents and guardians, in-
4 cluding on school websites and in school hand-
5 books.

6 (C) Monitoring complaints alleging harass-
7 ment, including sexual harassment, and other
8 forms of discrimination based on sex (including
9 sexual orientation, gender identity, sex charac-
10 teristics, pregnancy, childbirth, a medical condi-
11 tion related to pregnancy or childbirth, and sex
12 stereotypes), including supportive measures of-
13 fered to complainants, reasonable accommoda-
14 tions for complainants and respondents with
15 disabilities, and the outcomes of complaints.

16 (D) Identifying patterns of sex discrimina-
17 tion from complaints and addressing their im-
18 pact on the educational community.

19 (E) Monitoring the education program or
20 activity for barriers to reporting information
21 about conduct that may constitute sex discrimi-
22 nation under title IX of the Education Amend-
23 ments of 1972 and taking steps reasonably cal-
24 culated to address such barriers.

1 (F) Coordinating dissemination, collection,
2 and analysis of climate surveys described in sec-
3 tion 203, and identifying and proactively ad-
4 dressing sex discrimination in the local edu-
5 cational agency or institution of higher edu-
6 cation based on the results of climate surveys.

7 (G) Overseeing age-appropriate, accessible,
8 and trauma-informed sexual harassment pre-
9 vention education and training provided to
10 school employees and students at least once per
11 school year and ensuring that such prevention
12 education and training include diverse commu-
13 nities and identities, informed by research, and
14 conducted in partnership with local rape crisis
15 centers, State sexual assault coalitions, or com-
16 munity organizations that work on addressing
17 sex discrimination, including sexual harassment
18 in schools.

19 (3) WAIVER AUTHORIZED FOR LOCAL EDU-
20 CATIONAL AGENCIES.—

21 (A) IN GENERAL.—

22 (i) REQUESTING A WAIVER.—A local
23 educational agency described in paragraph
24 (1) may request a waiver from the Sec-
25 retary of one or more of the requirements

1 of such paragraph on the basis that the re-
2 quirement poses an insurmountable finan-
3 cial burden to the agency and the agency
4 has been unable to secure sufficient grants
5 under paragraph (4).

6 (ii) ALTERNATIVE PLAN.—

7 (I) IN GENERAL.—The waiver
8 process shall include requiring the
9 local educational agency to submit an
10 alternative plan for ensuring that stu-
11 dents are aware of their rights under
12 title IX of the Education Amendments
13 of 1972 (20 U.S.C. 1681 et seq.) and
14 have access to a Title IX Coordinator.

15 (II) ALTERNATIVE PLAN.—An al-
16 ternative plan submitted under sub-
17 clause (I) shall include, at a min-
18 imum, a demonstration that the local
19 educational agency has entered into a
20 partnership with a local rape crisis
21 center or a national or community-
22 based organization that specializes in
23 trauma or crisis management and
24 support. Such a plan shall establish a
25 clear delineation of the roles and re-

1 sponsibilities of the center or organi-
2 zation with the local educational agen-
3 cy, which also includes providing pre-
4 ventative training and supporting
5 measures when addressing reports of
6 sex-based harassment.

7 (B) WITHHOLDING ASSISTANCE.—If a
8 local educational agency has a waiver approved
9 under this paragraph but does not follow the al-
10 ternative plan, or the Secretary determines the
11 plan was insufficient to prevent and respond to
12 sexual harassment and assault, the Secretary
13 shall attempt a voluntary resolution. If a vol-
14 untary resolution is not possible during a rea-
15 sonable period of time, the Secretary shall take
16 such action as may be appropriate to withhold
17 Federal financial assistance.

18 (C) LENGTH OF WAIVER.—A waiver grant-
19 ed under this paragraph shall be valid for 2
20 years.

21 (4) AUTHORIZATION OF FUNDS FOR GRANTS.—

22 (A) IN GENERAL.—To carry out this sub-
23 section, there are authorized to be appropriated
24 to the Secretary \$100,000,000 for grants to
25 local educational agencies and institutions of

1 higher education described in paragraph (1) to
2 offset the financial burden of satisfying the re-
3 quirements of this subsection. In making grants
4 under this paragraph, the Secretary shall give
5 priority to local educational agencies and insti-
6 tutions of higher education that otherwise
7 would face a high financial burden in fulfilling
8 such requirements.

9 (B) DEFINITION OF INSTITUTION OF
10 HIGHER EDUCATION.—In this paragraph, the
11 term “institution of higher education” has the
12 meaning given the term in section 101 of the
13 Higher Education Act of 1965 (20 U.S.C.
14 1001).

15 (b) TRAINING REQUIREMENTS.—

16 (1) TRAINING PROGRAM.—

17 (A) IN GENERAL.—Not later than 1 year
18 after the date of enactment of this Act, the Sec-
19 retary, in coordination with the Attorney Gen-
20 eral and in consultation with national, State, or
21 local victim services organizations, local edu-
22 cational agencies, and institutions of higher
23 education, shall develop a training program,
24 which may include online training modules, for
25 training each individual who is involved in im-

1 plementing student grievance procedures at an
2 institution of higher education or local edu-
3 cational agency that receives Federal financial
4 assistance from the Department of Education,
5 including each individual who is responsible for
6 resolving complaints of reported sex-based har-
7 assment, including domestic violence, dating vi-
8 olence, sexual assault, sexual harassment, stalk-
9 ing, or sexual misconduct policy violations, such
10 as an investigator, decision-maker, informal res-
11 olution facilitator, or Title IX Coordinator.

12 (B) CONTENTS.—The training described in
13 subparagraph (A) shall include the following:

14 (i) The role and responsibility of Title
15 IX Coordinators.

16 (ii) Information and evidence-based
17 best practices for increasing awareness
18 about rights and obligations under title IX
19 of the Education Amendments of 1972 (20
20 U.S.C. 1681 et seq.).

21 (iii) Information and evidence-based
22 best practices for investigating and re-
23 sponding to claims of violations of title IX
24 of the Education Amendments of 1972 (20
25 U.S.C. 1681 et seq.), including—

1 (I) information on working with
2 and interviewing persons subjected to
3 sex-based harassment, including do-
4 mestic violence, dating violence, sexual
5 assault, sexual harassment, or stalk-
6 ing;

7 (II) information on particular
8 types of conduct that would constitute
9 sex-based harassment, including do-
10 mestic violence, dating violence, sexual
11 assault, sexual harassment, or stalk-
12 ing, regardless of gender, including
13 same-sex incidents of domestic vio-
14 lence, dating violence, sexual assault,
15 sexual harassment, or stalking;

16 (III) information on consent, and
17 what factors, including power dynam-
18 ics, may impact whether consent is
19 voluntarily given, including the effect
20 that drugs or alcohol may have on an
21 individual's ability to consent and in-
22 formation on consent for individuals
23 with disabilities or individuals who are
24 neurodivergent;

1 (IV) the effects of trauma, in-
2 cluding the neurobiology of trauma;

3 (V) training regarding the use of
4 trauma-informed interview techniques,
5 and reasonable accommodations for
6 interviewees with disabilities;

7 (VI) cultural awareness training
8 regarding how sex-based harassment,
9 including domestic violence, dating vi-
10 olence, sexual assault, sexual harass-
11 ment, or stalking may impact stu-
12 dents differently depending on their
13 cultural background;

14 (VII) information on sexual as-
15 sault dynamics, sexual assault pepe-
16 rator behavior, and barriers to re-
17 porting;

18 (VIII) the dynamics of power and
19 control within intimate partner vio-
20 lence and reactive abuse;

21 (IX) safety risks for victims asso-
22 ciated with reporting abuse or seeking
23 help;

1 (X) information on harassment
2 and abuse of LGBTQI+ students;
3 and

4 (XI) information on harassment
5 and abuse of disabled students.

6 (iv) For Title IX Coordinators, addi-
7 tional training on information and evi-
8 dence-based best practices for identifying
9 and preventing implicit and explicit sex
10 discrimination in all areas and at all levels
11 of education, including—

12 (I) recruitment and admissions;

13 (II) teaching practices, textbooks,
14 and curricula;

15 (III) campus safety and security;

16 (IV) financial assistance;

17 (V) access to facilities, resources,
18 and housing;

19 (VI) access to course offerings;

20 (VII) student health services and
21 insurance benefits;

22 (VIII) counseling and career
23 guidance;

24 (IX) athletics;

25 (X) discipline policies;

1 (XI) employment; and
2 (XII) other areas that the Assist-
3 ant Secretary for Civil Rights of the
4 Department of Education determines
5 are relevant for such purposes.

6 (2) INSTITUTIONAL TRAINING.—Each institu-
7 tion of higher education or local educational agency
8 that receives Federal financial assistance from the
9 Department of Education, shall ensure that the indi-
10 viduals and employees described in paragraph (1)(A)
11 receive the training described in this subsection not
12 later than the first July 15 following the date that
13 is 1 year after the date on which the Secretary com-
14 pletes the development of the training, and annually
15 thereafter.

16 (3) AUTHORIZATION OF FUNDS FOR GRANTS
17 FOR TRAINING FOR LOCAL EDUCATIONAL AGEN-
18 CIES.—There are authorized to be appropriated to
19 the Secretary \$50,000,000 for grants to local edu-
20 cational agencies to train elementary school and sec-
21 ondary school teachers and other school staff on how
22 to prevent, recognize, and respond to signs of sexual
23 harassment and assault among students or between
24 students and adults, as well as grooming behaviors
25 of adults toward students at school.

1 (4) AUTHORIZATION OF FUNDS FOR GRANTS
2 FOR TRAINING FOR INSTITUTIONS OF HIGHER EDU-
3 CATION.—

4 (A) IN GENERAL.—There are authorized to
5 be appropriated to the Secretary \$50,000,000
6 for grants to institutions of higher education to
7 train faculty, staff, and administrators on how
8 to prevent, recognize, and respond to signs of
9 sexual harassment and assault among students
10 or between students and employees, as well as
11 grooming behaviors of adults toward students.

12 (B) DEFINITION OF INSTITUTION OF
13 HIGHER EDUCATION.—In this paragraph, the
14 term “institution of higher education” has the
15 meaning given the term in section 101 of the
16 Higher Education Act of 1965 (20 U.S.C.
17 1001).

18 (c) DEFINITIONS.—In this section:

19 (1) ESEA TERMS.—The terms “elementary
20 school”, “local educational agency”, and “secondary
21 school” have the meanings given the terms in section
22 8101 of the Elementary and Secondary Education
23 Act of 1965 (20 U.S.C. 7801).

24 (2) GROOMING.—The term “grooming”, used
25 with respect to a behavior, means a method used by

1 an adult to build trust with a student in an effort
2 to both maintain control over the student and gain
3 access to time alone with the student for the pur-
4 poses of sexual harassment, as defined in section
5 203(i).

6 (3) INSTITUTION OF HIGHER EDUCATION.—Ex-
7 cept as otherwise provided, the term “institution of
8 higher education” has the meaning given the term in
9 section 102 of the Higher Education Act of 1965
10 (20 U.S.C. 1002).

11 (4) SECRETARY.—The term “Secretary” means
12 the Secretary of Education.

13 (5) SEXUAL HARASSMENT.—The term “sexual
14 harassment” has the meaning given the term in sec-
15 tion 203(i).

16 (6) TITLE IX COORDINATOR.—The term “Title
17 IX Coordinator” has the meaning given the term in
18 section 205(c).

○