

119TH CONGRESS
2D SESSION

S. _____

To amend the Higher Education Act of 1965 to require the standards for accreditation of an institution of higher education to assess the institution’s adoption of admissions practices that refrain from preferential treatment in admissions based on an applicant’s relationship to alumni of, or donors to, the institution, to authorize a feasibility study on data collection, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. YOUNG (for himself, Mr. KAINE, Mr. SCOTT of South Carolina, Mr. WARNOCK, Mr. KENNEDY, and Mr. KIM) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Higher Education Act of 1965 to require the standards for accreditation of an institution of higher education to assess the institution’s adoption of admissions practices that refrain from preferential treatment in admissions based on an applicant’s relationship to alumni of, or donors to, the institution, to authorize a feasibility study on data collection, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Merit-based Edu-
3 cational Reforms and Institutional Transparency Act” or
4 the “MERIT Act”.

5 **SEC. 2. ASSESSMENT OF ADMISSIONS PRACTICES.**

6 (a) IN GENERAL.—

7 (1) STANDARDS FOR ACCREDITATION.—Section
8 496(a)(5) of the Higher Education Act of 1965 (20
9 U.S.C. 1099b(a)(5)) is amended—

10 (A) by redesignating subparagraphs (G),
11 (H), (I), and (J), as subparagraphs (H), (I),
12 (J), and (K), respectively;

13 (B) by inserting after subparagraph (F)
14 the following:

15 “(G) adoption of admissions practices that
16 refrain from any manner of preferential treat-
17 ment in the admission process to applicants on
18 the basis of the applicant’s relationship to—

19 “(i) alumni of the institution; or

20 “(ii) donors to the institution;”;

21 (C) in subparagraph (H), as redesignated
22 under subparagraph (A), by striking “and ad-
23 missions”; and

24 (D) in the flush matter at the end, by
25 striking “subparagraphs (A), (H), and (J)” and
26 inserting “subparagraphs (A), (I), and (K)”.

1 (2) PREFERENTIAL TREATMENT DEFINITION.—

2 Section 496 of the Higher Education Act of 1965
3 (20 U.S.C. 1099b) is amended by adding at the end
4 the following:

5 “(r) PREFERENTIAL TREATMENT.—For the purpose
6 of subsection (a)(5)(G), the term ‘preferential treatment’
7 means making an admissions decision or awarding tan-
8 gible education benefits where an applicant’s relationship
9 with an alumni of, or donor to, the deciding institution
10 serves as the determinative factor.”.

11 (b) RULE OF CONSTRUCTION.—Section 496(p) of the
12 Higher Education Act of 1965 (20 U.S.C. 1099b(p)) is
13 amended—

14 (1) by redesignating paragraphs (1) and (2) as
15 subparagraphs (A) and (B), respectively, and mov-
16 ing the margins of such subparagraphs (as so reded-
17 ignated) 2 ems to the right;

18 (2) by striking “Nothing in subsection (a)(5)
19 shall be construed to restrict the ability of” and in-
20 serting the following:

21 “(1) IN GENERAL.—Nothing in subsection
22 (a)(5) shall be construed to restrict the ability of”;
23 and

24 (3) by adding at the end of the following:

1 “(2) DEMONSTRATED INTEREST.—Nothing in
2 subparagraph (G) of subsection (a)(5) shall be con-
3 strued to prevent institutions from considering the
4 demonstrated interest of an applicant as a factor in
5 admissions decisions if—

6 “(A) the criteria for assessing dem-
7 onstrated interest are clearly defined and made
8 publicly available;

9 “(B) the applicant is provided the oppor-
10 tunity to explain why they have a demonstrated
11 interest in the institution, which may be in-
12 formed by lived experiences, values, attributes,
13 and faith; and

14 “(C) the opportunities to demonstrate in-
15 terest are equally accessible to all applicants,
16 regardless of their financial resources, alumni
17 affiliation, or donor affiliation.

18 “(3) FAITH-BASED INSTITUTIONS.—Nothing in
19 subparagraph (G) of subsection (a)(5) shall be con-
20 strued to inhibit the right of a religious institution
21 to make admissions decisions consistent with the in-
22 stitution’s faith-based values.”.

23 (c) REPORT.—

24 (1) IN GENERAL.—Not later than 180 days
25 after the date of completion of the negotiated rule-

1 making process under section 492 of the Higher
2 Education Act of 1965 (20 U.S.C. 1098a) with re-
3 spect to the amendments made by this section, and
4 biennially thereafter, the Secretary of Education
5 shall submit to the Committee on Health, Edu-
6 cation, Labor, and Pensions of the Senate and the
7 Committee on Education and Workforce of the
8 House of Representatives a report that identifies the
9 efforts taken to ensure compliance with the require-
10 ments of this section and the amendments made by
11 this section, including—

12 (A) any technical assistance the Secretary
13 has provided;

14 (B) any regulatory guidance the Secretary
15 has issued; and

16 (C) any compliance monitoring the Sec-
17 retary has conducted.

18 (2) PUBLIC AVAILABILITY.—Each report de-
19 scribed under paragraph (1) shall be made available
20 to the public.

21 **SEC. 3. FEASIBILITY STUDY TO IMPROVE DATA COLLEC-**
22 **TION.**

23 (a) IN GENERAL.—Not later than 2 years after the
24 date of enactment of this Act, the Secretary of Education
25 shall explore the feasibility of working with the National

1 Student Clearinghouse to establish a third-party method
2 to collect and produce institution-level analysis of data on
3 the impact of an admissions decision based on an appli-
4 cant's relationship with an alumni of, or donor to, the de-
5 ciding institution, and how such data reported to the Na-
6 tional Student Clearinghouse could be secured, while con-
7 sidering the following:

8 (1) Whether data reported to the National Stu-
9 dent Clearinghouse can accurately capture the im-
10 pact and prevalence of admitting students with
11 alumni or donor affiliations at various institutions.

12 (2) Whether institutions have clear and defined
13 policies regarding admitting students with alumni or
14 donor affiliations that can be transparently reported
15 to the National Student Clearinghouse.

16 (3) Whether this new data stream can be inte-
17 grated with reporting to the Integrated Postsec-
18 ondary Education Data System (IPEDS) while en-
19 suring that the quality of data remains consistent or
20 improves compared to the data provided through
21 IPEDS.

22 (4) Whether reporting this new data might
23 alter the current interaction between institutions and
24 the National Student Clearinghouse.

1 (5) Whether reporting such data can maintain
2 confidentiality, especially regarding private dona-
3 tions and donor identities, while still producing accu-
4 rate measures of institutional practices.

5 (6) Whether the National Student Clearing-
6 house can satisfy data reporting requirements with-
7 out transferring any disaggregated data that would
8 be personally identifiable to the Department of Edu-
9 cation.

10 (7) Whether the data can be reported in such
11 a way that it separates students with familial ties to
12 alumni from those admitted due to direct donor af-
13 filiations.

14 (8) Whether there's a distinction in admissions
15 criteria for legacy and donor-affiliated applicants
16 compared to traditional applicants.

17 (b) RULE OF CONSTRUCTION.—Nothing in this sec-
18 tion shall be construed to authorize the development of
19 a nationwide database of personally identifiable informa-
20 tion on individuals involved in studies or other collections
21 of data under this Act or an amendment made by this
22 Act.