

116TH CONGRESS  
1ST SESSION

# H. R. 761

To amend the Higher Education Act of 1965 to strengthen prevention and response measures for hate crimes on college campuses by establishing robust accountability measures, providing needs-based grants, and amending the Clery Act.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 2019

Mr. BROWN of Maryland (for himself, Mr. BLUMENAUER, Ms. CLARKE of New York, Mr. COHEN, Mrs. DEMINGS, Mrs. DINGELL, Ms. NORTON, Ms. WASSERMAN SCHULTZ, and Ms. WILSON of Florida) introduced the following bill; which was referred to the Committee on Education and Labor

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## A BILL

To amend the Higher Education Act of 1965 to strengthen prevention and response measures for hate crimes on college campuses by establishing robust accountability measures, providing needs-based grants, and amending the Clery Act.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Creating Account-  
5 ability Measures Protecting University Students Histori-

1 cally Abused, Threatened, and Exposed to Crimes Act”  
2 or the “CAMPUS HATE Crimes Act”.

3 **SEC. 2. FINDINGS.**

4 Congress finds the following:

5 (1) The incidence of violence motivated by the  
6 actual or perceived race, color, religion, national ori-  
7 gin, gender, sexual orientation, gender identity, or  
8 disability of the victim, known as hate crimes or  
9 crimes motivated by bias, poses a serious national  
10 problem.

11 (2) Such violence motivated by hatred and big-  
12 otry endangers our citizens and disrupts the commu-  
13 nities they live in, by tearing at the fabric of our  
14 Nation and our constitutional aspiration to create a  
15 stronger, more perfect union.

16 (3) According to data obtained by the Southern  
17 Poverty Law Center, schools were a particularly  
18 common location for hate crimes to occur—including  
19 150 incidents on college campuses in 33 States since  
20 November.

21 (4) This level of violence demonstrates an un-  
22 precedented escalation in race and hate-based crime  
23 being committed on college campuses compared to  
24 recent years.

1           (5) Hate groups have openly declared their ef-  
2           forts to establish a physical presence on college cam-  
3           puses and have specifically targeted young individ-  
4           uals and students for their messaging. Such efforts  
5           include placing fliers around campus, online orga-  
6           nizing, and bringing national leaders to speak.

7           (6) College campuses have become the ideal lo-  
8           cation for hate group activity because they tradition-  
9           ally embrace diversity, tolerance, and social justice  
10          and strive for equality and have created safe spaces  
11          for students of every gender and identity.

12          (7) These are soft targets for such groups, be-  
13          cause students are more curious and receptive to  
14          new, even radical, ideas than older individuals.

15          (8) The Higher Education Act of 1965 and the  
16          Jeanne Clery Disclosure of Campus Security Policy  
17          and Campus Crime Statistics Act have enabled Fed-  
18          eral authorities to understand, report, and where ap-  
19          propriate, investigate and prosecute hate crimes  
20          committed within the jurisdiction of an institution of  
21          higher education.

22          (9) However, an enduring effort cannot be  
23          made to address the national problem posed by hate  
24          crimes if many of our institutions of higher edu-  
25          cation fail to properly evaluate, prepare, and imple-

1       ment an effective strategy to prevent and respond to  
2       such crimes.

3               (10) The annual dissemination of relevant in-  
4       formation to students and faculty regarding the in-  
5       stitution's campus safety apparatus will provide for  
6       a more transparent and informed campus commu-  
7       nity on the infrastructure and process in place, and  
8       the assistance services available.

9               (11) Federal financial assistance with regard to  
10      providing training, technical assistance, evaluation,  
11      and other associated services will allow school secu-  
12      rity and administration to understand the unique  
13      needs for the campus and the assistance to imple-  
14      ment the proper safety plan to address those needs.

15              (12) Amending the Program Participation  
16      Agreement between an institution of higher edu-  
17      cation and the Department of Education to include  
18      hate crime programs provides substantial assurance  
19      that campus climate and safety will become an in-  
20      creasing priority and focal point to the higher edu-  
21      cation community.

22              (13) Modifying the Jeanne Clery Disclosure of  
23      Campus Security Policy and Campus Crime Statis-  
24      tics Act will enable campus security and local law  
25      enforcement to more efficiently collaborate in detail-

1 ing and recording information on crimes, including  
2 violence motivated by the actual or perceived race,  
3 color, religion, national origin, gender, sexual ori-  
4 entation, gender identity, or disability of the victim.

5 (14) The problem of crimes motivated by bias  
6 is sufficiently serious, widespread, and interstate in  
7 nature as to warrant Federal financial assistance to  
8 States and local jurisdictions.

9 **SEC. 3. HATE CRIME PREVENTION AND RESPONSE.**

10 Part B of title I of the Higher Education Act of 1965  
11 is amended by adding at the end the following:

12 **“SEC. 124. HATE CRIME PREVENTION AND RESPONSE.**

13 “(a) RESTRICTION ON ELIGIBILITY.—Notwithstand-  
14 ing any other provision of law, no institution of higher  
15 education shall be eligible to receive funds or any other  
16 form of financial assistance under any program under title  
17 IV, unless the institution certifies to the Secretary that  
18 the institution has adopted and has implemented a pro-  
19 gram to prevent and adequately respond to hate crimes  
20 within the jurisdiction of the institution or by students  
21 and employees that, at a minimum, includes—

22 “(1) the annual distribution to each student  
23 and employee of—

24 “(A) standards of conduct and the applica-  
25 ble sanctions that clearly prohibit, at a min-

1 inum, the acts or threats of violence, property  
2 damage, harassment, intimidation, or other  
3 crimes that specifically target an individual  
4 based on their race, religion, ethnicity, handi-  
5 cap, sexual orientation, gender, or gender iden-  
6 tification by students and employees on the in-  
7 stitution’s property or as a part of any of the  
8 institution’s activities;

9 “(B) a clear definition of what constitutes  
10 a hate crime or hate incident under Federal  
11 and State law or other applicable authority;

12 “(C) a description of the applicable legal  
13 sanctions under local, State, or Federal law for  
14 perpetrating a hate crime;

15 “(D) a description of any counseling, med-  
16 ical treatment, or rehabilitation programs that  
17 are available to students or employees that are  
18 victims of hate crimes or other hate-based  
19 incidences;

20 “(E) a description of applicable services  
21 for students to be able to switch dorms, classes,  
22 or make other arrangements should they feel  
23 unsafe in those spaces due to a hate crime  
24 which affects such space; and

1           “(F) a distinct statement that the institu-  
2           tion will impose sanctions on students and em-  
3           ployees (consistent with local, State, and Fed-  
4           eral law), and a description of those sanctions,  
5           up to and including expulsion or termination of  
6           employment and referral for prosecution, for  
7           violations of the standards of conduct required  
8           by subparagraph (A); and

9           “(2) a quadrennial review by the institution of  
10          the institution’s program to—

11           “(A) determine the program’s effectiveness  
12           and implement changes to the program if the  
13           changes are needed;

14           “(B) determine the number of hate crimes  
15           and fatalities that—

16           “(i) occur on the institution’s campus  
17           (as defined in section 485(f)(6)), or as  
18           part of any of the institution’s activities;  
19           and

20           “(ii) are reported to campus officials  
21           or nonaffiliated local law enforcement  
22           agencies with jurisdiction over the incident;

23           “(C) determine the number, type, and se-  
24           verity of sanctions described in paragraph  
25           (1)(F) that are imposed by the institution as a

1 result of hate crimes and fatalities on the insti-  
2 tution's campus or as part of any of the institu-  
3 tion's activities; and

4 “(D) ensure that sanctions required by  
5 paragraph (1)(F) are consistently enforced.

6 “(b) INFORMATION AVAILABILITY.—Each institution  
7 of higher education that provides the certification required  
8 by subsection (a) shall, upon request, make available to  
9 the Secretary and to the public a copy of each item re-  
10 quired by subsection (a)(1) as well as the results of the  
11 biennial review required by subsection (a)(2).

12 “(1) REGULATIONS.—

13 “(A) IN GENERAL.—The Secretary shall  
14 publish regulations to implement and enforce  
15 the provisions of this section, including regula-  
16 tions that provide for—

17 “(i) the periodic review of a represent-  
18 ative sample of programs required by sub-  
19 section (a); and

20 “(ii) a range of responses and sanc-  
21 tions for institutions of higher education  
22 that fail to implement their programs or to  
23 consistently enforce their sanctions, includ-  
24 ing information and technical assistance,  
25 the development of a compliance agree-

1                   ment, and the termination of any form of  
2                   Federal financial assistance.

3                   “(B) INCLUSIVITY PROGRAM.—The sanc-  
4                   tions required by subsection (a)(1)(F) that are  
5                   imposed by the institution of higher education,  
6                   may include an inclusivity program as an ex-  
7                   plicit condition of remaining enrolled at the in-  
8                   stitution of higher education, that the defend-  
9                   ant successfully undertake educational classes  
10                  or community service directly related to the  
11                  community harmed by the respondent’s offense.

12                  “(2) APPEALS.—Upon determination by the  
13                  Secretary to terminate financial assistance to any in-  
14                  stitution of higher education under this section, the  
15                  institution may file an appeal with an administrative  
16                  law judge before the expiration of the 30-day period  
17                  beginning on the date such institution is notified of  
18                  the decision to terminate financial assistance under  
19                  this section. Such judge shall hold a hearing with re-  
20                  spect to such termination of assistance before the  
21                  expiration of the 45-day period beginning on the  
22                  date that such appeal is filed. Such judge may ex-  
23                  tend such 45-day period upon a motion by the insti-  
24                  tution concerned. The decision of the judge with re-

1 spect to such termination shall be considered to be  
2 a final agency action.

3 “(3) HATE CRIME PREVENTION AND RESPONSE  
4 GRANTS.—

5 “(A) PROGRAM AUTHORITY.—The Sec-  
6 retary may make grants to institutions of high-  
7 er education or consortia of such institutions,  
8 and enter into contracts with such institutions,  
9 consortia, and other organizations, to develop,  
10 implement, operate, improve, and disseminate  
11 programs of prevention, and education to re-  
12 duce and eliminate hate crimes. Such grants or  
13 contracts may also be used for the support of  
14 a higher education center for hate crime pre-  
15 vention and response that will provide training,  
16 technical assistance, evaluation, dissemination,  
17 and associated services and assistance to the  
18 higher education community as determined by  
19 the Secretary and institutions of higher edu-  
20 cation.

21 “(B) AWARDS.—Grants and contracts  
22 shall be awarded under subparagraph (A) on a  
23 by needs basis.

24 “(C) APPLICATIONS.—An institution of  
25 higher education or a consortium of such insti-

1           tutions that desires to receive a grant or con-  
2           tract under paragraph (A) shall submit an ap-  
3           plication to the Secretary at such time, in such  
4           manner, and containing or accompanied by  
5           such information as the Secretary may reason-  
6           ably require by regulation.

7           “(D) ADDITIONAL REQUIREMENTS.—

8           “(i) PARTICIPATION.—In awarding  
9           grants and contracts under this subsection  
10          the Secretary shall make every effort to  
11          ensure—

12                   “(I) the equitable participation of  
13                   private and public institutions of high-  
14                   er education (including community  
15                   and junior colleges); and

16                   “(II) the equitable geographic  
17                   participation of such institutions.

18          “(ii) CONSIDERATION.—In awarding  
19          grants and contracts under this subsection  
20          the Secretary shall give appropriate consid-  
21          eration to institutions of higher education  
22          with limited enrollment.

23          “(E) AUTHORIZATION OF APPROPRIA-  
24          TIONS.—There are authorized to be appro-  
25          priated to carry out this subsection such sums

1 as may be necessary for fiscal year 2020 and  
2 each of the 5 succeeding fiscal years.

3 “(4) DEFINITION.—The term ‘hate crime’  
4 means any criminal offense perpetrated against a  
5 person or property that was motivated in whole or  
6 in part by an offender’s bias against a race, religion,  
7 disability, sexual orientation, ethnicity, gender, or  
8 gender identity.”.

9 **SEC. 4. CLERY ACT AMENDMENTS.**

10 Section 485(f) of the Higher Education Act of 1965  
11 (20 U.S.C. 1092(f)) is amended—

12 (1) in paragraph (1)—

13 (A) in subparagraph (C)—

14 (i) by striking “and” at the end of  
15 clause (ii);

16 (ii) in clause (iii)—

17 (I) by striking “encourage” and  
18 inserting “require”;

19 (II) by inserting “, including hate  
20 crimes,” after “all crimes”; and

21 (III) by striking the period at the  
22 end and inserting “; and”; and

23 (iii) by adding at the end the fol-  
24 lowing:

1 “(i) policies encourage officer develop-  
2 ment training to specifically recognize, pre-  
3 vent, and respond to hate crimes.”; and

4 (B) by adding at the end the following:

5 “(K) A statement of policy regarding hate-  
6 based crimes and the enforcement of Federal and  
7 State hate crime laws and a description of any hate  
8 crime prevention and response programs required  
9 under section 124.”; and

10 (2) in paragraph (6)(A), by adding at the end  
11 the following:

12 “(vi) The term ‘hate crime’ has the  
13 meaning given the term in section  
14 124(b)(4).”.

15 **SEC. 5. PROGRAM PARTICIPATION AGREEMENTS.**

16 Section 487(a) of the Higher Education Act of 1965  
17 (20 U.S.C. 1094(a)) is amended by adding at the end the  
18 following:

19 “(30) The institution will have hate  
20 crime prevention and response programs  
21 that the institution has determined to be  
22 accessible to any officer, employee, or stu-  
23 dent at the institution and which meets the  
24 requirements of section 124.”.

1 **SEC. 6. ACCREDITING AGENCY RECOGNITION.**

2 Section 496(a)(5) of the Higher Education Act of  
3 1965 (20 U.S.C. 1099b(a)(5)) is amended—

4 (1) in subparagraph (I), by striking “and” at  
5 the end;

6 (2) in subparagraph (J), by inserting “and”  
7 after the semicolon; and

8 (3) by inserting after subparagraph (J) and be-  
9 fore the flush text, the following:

10 “(K) safety objectives with respect to hate  
11 crimes (defined in section 124(b)(4)) and the  
12 established measures and policies to combat  
13 such crimes;”.

○