S. 789

To amend the Higher Education Act of 1965 to improve the financial aid process for homeless and foster care youth.

IN THE SENATE OF THE UNITED STATES

March 13, 2019

Mrs. Murray (for herself and Mr. Portman) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Higher Education Act of 1965 to improve the financial aid process for homeless and foster care youth.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Higher Education Access and Success for Homeless and Foster Youth Act”.

SEC. 2. DEFINITIONS.

(a) INDEPENDENT STUDENT.—Section 480(d)(1)(H) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(d)(1)(H)) is amended—

(1) in the matter preceding clause (i)—
(A) by striking “during the school year in which the application is submitted”; 

(B) by inserting “age 23 or younger” after “unaccompanied youth”; and 

(C) by striking “terms are” and inserting “term is”; 

(2) in clause (i), by inserting “, or a designee of the liaison” after “Act”; 

(3) in clause (ii), by striking “a program funded under the Runaway and Homeless Youth Act” and inserting “an emergency or transitional shelter, street outreach program, homeless youth drop-in center, or other program serving homeless youth,”; and 

(4) in clause (iii), by striking “program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (relating to emergency shelter grants)” and inserting “Federal TRIO program or a Gaining Early Awareness and Readiness for Undergraduate program under chapter 1 or 2 of subpart 2 of part A,”. 

(b) FOSTER CARE YOUTH.—Section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003) is amended by adding at the end the following:
“(25) Foster care youth.—The term ‘foster care youth’—

“(A) means children and youth whose care and placement are the responsibility of the State or Tribal agency that administers a State or Tribal plan under part B or E of title IV of the Social Security Act (42 U.S.C. 621 et seq. and 670 et seq.), without regard to whether foster care maintenance payments are made under section 472 of such Act (42 U.S.C. 672) on behalf of such children and youth; and

“(B) includes individuals who were age 13 or older when their care and placement were the responsibility of a State or Tribal agency that administered a State or Tribal plan under part B or E of title IV of the Social Security Act (42 U.S.C. 621 et seq. and 670 et seq.) and who are no longer under the care and responsibility of such a State or Tribal agency, without regard to any such individual’s subsequent adoption, guardianship arrangement, or other form of permanency outcome.”.
SEC. 3. STREAMLINING DETERMINATIONS AND VERIFICATION.

Section 480(d) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(d)) is amended by adding at the end the following:

“(3) SIMPLIFYING THE DETERMINATION PROCESS FOR UNACCOMPANIED YOUTH.—

“(A) VERIFICATION.—A financial aid administrator shall accept a determination of independence made by any individual authorized to make such determinations under clause (i), (ii), or (iii) of paragraph (1)(H) in the absence of conflicting information. A documented phone call with, or a written statement from, one of the authorized individuals is sufficient verification when needed. For purposes of this paragraph, a financial aid administrator’s disagreement with the determination made by an authorized individual shall not be considered conflicting information.

“(B) DETERMINATION OF INDEPENDENCE.—A financial aid administrator shall make a determination of independence under paragraph (1)(H) if a student does not have, and cannot get, documentation from any of the
other designated authorities described in such paragraph. Such a determination shall be—

“(i) based on the definitions outlined in paragraph (1)(H);

“(ii) distinct from a determination of independence under paragraph (1)(I);

“(iii) based on a documented interview with the student; and

“(iv) limited to whether the student meets the definitions in paragraph (1)(H) and not about the reasons for the student’s homelessness.

“(C) ADDITIONAL STREAMLINING PERMITTED.—Nothing in this paragraph prohibits an institution from implementing policies that—

“(i) streamline the determination of independence under paragraph (1)(H); and

“(ii) improve a student’s access to financial aid because that student is an unaccompanied youth.

“(4) SIMPLIFYING THE VERIFICATION PROCESS FOR FOSTER CARE YOUTH.—

“(A) VERIFICATION OF INDEPENDENCE.— If an institution requires documentation to verify that a student is independent based on a
status described in paragraph (1)(B), a financial aid administrator shall consider any of the following as adequate verification:

“(i) Submission of a court order or official State documentation that the student received Federal or State support in foster care.

“(ii) A documented phone call with, written statement from, or verifiable electronic data match with—

“(I) a child welfare agency authorized by a State or county;

“(II) a Tribal child welfare authority;

“(III) an Independent Living case worker;

“(IV) a public or private foster care placing agency or foster care facility or placement;

“(V) another program serving orphans, foster care youth, or wards of the court; or

“(VI) a probation officer.

“(iii) A documented phone call with, or a written statement from, an attorney,
a guardian ad litem, or a Court Appointed Special Advocate, documenting that person’s relationship to the student.

“(iv) A documented phone call with, or a written statement from, a representative of a Federal TRIO program or a Gaining Early Awareness and Readiness for Undergraduate program under chapter 1 or 2 of subpart 2 of part A.

“(v) Verification of the student’s eligibility for an education and training voucher under the John H. Chafee Foster Care Independence Program (42 U.S.C. 677).

“(vi) Submission of a copy of the student’s biological or adoptive parents’ or legal guardians’—

“(I) Certificates of Death; or

“(II) verifiable obituaries.

“(vii) An attestation from the student, which includes a description of why the student may qualify for a status described in paragraph (1)(B), including the approximate dates that the student was in foster care, dependent, or a ward of the court, to the best of the student’s knowledge after
making reasonable efforts to provide any
requested documentation.

“(B) ADDITIONAL STREAMLINING PER-
MITTED.—Nothing in this paragraph prohibits
an institution from implementing policies that
streamline the determination of independent
status and improve a student’s access to finan-
cial aid because that student is an orphan, in
foster care, or a ward of the court, or was an
orphan, in foster care, or a ward of the court
at any time when the student was 13 years of
age or older.

“(5) TIMING; USE OF EARLIER DETERMINA-
tion.—

“(A) TIMING.—A determination under
subparagraph (B) or (H) of paragraph (1) for
a student—

“(i) shall be made as quickly as prac-
ticable;

“(ii) may be made as early as the year
before the award year for which the stu-
dent initially submits an application; and

“(iii) shall be made no later than dur-
ing the award year for which the student
initially submits an application.
“(B) USE OF EARLIER DETERMINATION.—

Any student who is determined to be independent under subparagraph (B) or (H) of paragraph (1) for a preceding award year at an institution shall be presumed to be independent for each subsequent award year at the same institution unless—

“(i) the student informs the institution that circumstances have changed; or

“(ii) the institution has specific conflicting information about the student’s independence, and has informed the student of this information and the opportunity to challenge such information through a documented interview or an impartial review by the Student Loan Ombudsman pursuant to section 141(f)(3)(C).

“(6) RETENTION OF DOCUMENTS.—A financial aid administrator shall retain all documents related to the determination of independence under subparagraph (B) or (H) of paragraph (1), including documented interviews, for the duration of the student’s enrollment at the institution and for a minimum of 1 year after the student is no longer enrolled at the institution.”.
SEC. 4. STUDENT LOAN OMBUDSMAN.


(1) in subparagraph (A), by striking “and” after the semicolon;

(2) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(C) receive, review, and resolve expeditiously complaints regarding a student’s independence under subparagraph (B) or (H) of section 480(d)(1), in consultation with knowledgeable parties, including child welfare agencies, local educational agency liaisons for homeless individuals designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii)), or State Coordinators for Education of Homeless Children and Youth established in accordance with section 722 of such Act (42 U.S.C. 11432).”.

SEC. 5. HOUSING AND DESIGNATION OF LIAISONS.

(a) ACCESS TO HOUSING.—Section 487(a)(19) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)(19)) is amended—
(1) by striking “The institution will not” and inserting the following: “The institution—

“(A) will not”;

(2) inserting “housing facilities,” after “libraries,”;

(3) by striking “institution.” and inserting “institution; and”; and

(4) by adding at the end the following:

“(B) will provide a means for students to access institutionally owned or operated housing if a student is temporarily unable to meet financial obligations related to housing, including deposits, due to delayed disbursement of vouchers for education and training made available under section 477 of part E of title IV of the Social Security Act or delays attributable to the institution.”.

(b) LIAISON.—Section 485 of the Higher Education Act of 1965 (20 U.S.C. 1092) is amended by adding at the end the following:

“(n) Each institution of higher education participating in any program under this title shall—

“(1) have designated an appropriate staff person as a liaison to assist homeless individuals described in section 725 of the McKinney-Vento
Homeless Assistance Act (42 U.S.C. 11434a) and foster care youth in accessing and completing post-secondary education, including by ensuring that such homeless individuals and foster care youth are connected to applicable and available student support services, programs, and community resources in areas such as financial aid, academic advising, housing, food, public benefits, health care, health insurance, mental health, child care, transportation benefits, and mentoring;

“(2) post public notice about student financial assistance and other assistance available to such homeless individuals and foster care youth, including their eligibility as independent students under subparagraphs (B) and (H) of sections 480(d)(1);

“(3) give priority for any institutionally owned or operated housing facilities, including student housing facilities that remain open for occupation during school breaks or on a year-round basis, to—

“(A) homeless individuals described in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);

“(B) youth who are unaccompanied, at risk of homelessness, and self-supporting; and

“(C) foster care youth;
“(4) have developed a plan for how such homeless individuals, youth who are unaccompanied, at risk of homelessness, and self-supporting, and foster care youth can access housing resources during and between academic terms, through means that may include access to institutionally owned or operated housing during breaks and a list of housing resources in the community that provide short-term housing; and

“(5) include, in its application for admission, questions (to be answered voluntarily) regarding the applicant’s status as a homeless individual or foster care youth, that—

“(A) can be answered by the applicant voluntarily for the limited purpose of being provided information about financial aid or any other available assistance;

“(B) explain the key terms in the question in a manner children and youth can understand in order to self-identify and declare eligibility as a homeless individual or foster care youth; and

“(C) with consent of the applicant, may be shared with the liaison after admission but prior to the beginning of the next academic term.”.
SEC. 6. FEDERAL TRIO PROGRAMS.

Section 402A of the Higher Education Act of 1965 (20 U.S.C. 1070a–11) is amended—

(1) in subsection (c)(6), by striking the last sentence and inserting the following: “The Secretary shall require each applicant for funds under the programs authorized by this chapter to identify and conduct outreach to foster care youth and homeless individuals described in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a), and make available to foster care youth and homeless individuals services under such programs, including mentoring, tutoring, and other services provided by such programs.”; and

(2) in subsection (f)(2), by striking “college students, and” and inserting “college students, foster care youth, homeless individuals, and”.

SEC. 7. TALENT SEARCH.

Section 402B(d) of the Higher Education Act of 1965 (20 U.S.C. 1070a–12(d)) is amended—

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

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

(3) by adding at the end the following:
“(5) require an assurance that the entity carrying out the project has reviewed and revised policies and practices as needed to remove barriers to the participation and retention in the project of homeless individuals described in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a), including unaccompanied youth, and foster care youth;

“(6) require that such entity submit, as part of the application for the project, a description of the activities that will be undertaken to reach out to such homeless individuals and foster care youth as part of the project; and

“(7) require an assurance that such entity will prepare and submit the report required under section 402H(e) at the conclusion of the project regarding such homeless individuals and foster care youth.”.

SEC. 8. UPWARD BOUND.

Section 402C(e) of the Higher Education Act of 1965 (20 U.S.C. 1070a–13(e)) is amended—

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

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and
(3) by adding at the end the following:

“(6) require an assurance that the entity carrying out the project has reviewed and revised policies and practices as needed to remove barriers to the participation and retention in the project of homeless individuals described in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a), including unaccompanied youth, and foster care youth;

“(7) require that such entity submit, as part of the application, a description of the activities that will be undertaken to reach out to such homeless individuals and foster care youth regarding the project; and

“(8) require an assurance that such entity will prepare and submit the report required under section 402H(e) at the conclusion of the project regarding such homeless individuals and foster care youth.”.

SEC. 9. STUDENT SUPPORT SERVICES.

Section 402D(e) of the Higher Education Act of 1965 (20 U.S.C. 1070a–14(e)) is amended—

(1) in paragraph (5), by striking “and” after the semicolon;
(2) in paragraph (6)(B), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(7) require an assurance that the entity carrying out the project has reviewed and revised policies and practices as needed to remove barriers to the participation and retention in the project of homeless individuals described in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a), including unaccompanied youth, and foster care youth;

“(8) require that such entity submit, in the application for the project, a description of the activities that will be undertaken to reach out to such homeless individuals, and foster care youth, who are enrolled or accepted for enrollment at the institution; and

“(9) require an assurance that such entity will prepare and submit the report required under section 402H(e) at the conclusion of the project regarding such homeless individuals and foster care youth.”.

SEC. 10. EDUCATIONAL OPPORTUNITY CENTERS.

Section 402F(c) of the Higher Education Act of 1965 (20 U.S.C. 1070a–16(c)) is amended—
(1) in paragraph (2), by striking “and” after the semicolon;

(2) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(5) require an assurance that the entity carrying out the project has reviewed and revised policies and practices as needed to remove barriers to the participation and retention in the project of homeless individuals described in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a), including unaccompanied youth, and foster care youth;

“(6) require that such entity submit, as part of the application, a description of the activities that will be undertaken to reach out to such homeless individuals and foster care youth regarding the project; and

“(7) require an assurance that such entity will prepare and submit the report required under section 402H(e) at the conclusion of the project regarding such homeless individuals and foster care youth.”.
SEC. 11. REPORTS AND EVALUATIONS.

Section 402H of the Higher Education Act of 1965 (20 U.S.C. 1070a–18) is amended by adding at the end the following:

“(e) Report Regarding Homeless Individuals and Foster Care Youth.—Each entity carrying out a project under section 402B, 402C, 402D, or 402F shall, at the conclusion of the project, prepare and submit a report to the Secretary that includes—

“(1) data on the number of homeless individuals described in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a) and foster care youth served through the project; and

“(2) a description of any strategies or program enhancements that were used in the project and that were effective in meeting the needs of such homeless individuals and foster care youth.”.

SEC. 12. GAINING EARLY AWARENESS AND READINESS FOR UNDERGRADUATE PROGRAMS.

Section 404C(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1070a–23(a)(2))—

(1) in subparagraph (I), by striking “and” after the semicolon;

(2) in subparagraph (J), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:
“(K) describe how the eligible entity will facilitate the participation of foster care youth and homeless individuals described in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a), including—

“(i) how the eligible entity will identify foster care youth and such homeless individuals, in collaboration with child welfare agencies, homeless shelters, and local educational agency liaisons for homeless individuals designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii));

“(ii) how the eligible entity will collect and submit to the Secretary data on the number of such homeless individuals and foster care youth served; and

“(iii) the policies and practices the eligible entity will adopt to remove barriers to the participation of such homeless individuals and foster care youth, including policies to facilitate continued participation despite changes in residence resulting from homelessness or foster care placement and
policies consistent with the McKinney-
Vento Homeless Assistance Act (42 U.S.C.
11301 et seq.).”.

SEC. 13. GRANT FOR FEDERAL WORK-STUDY PROGRAMS.

Section 443(b)(6) of the Higher Education Act of
1965 (20 U.S.C. 1087–53(b)(6)) is amended by inserting
“, and prioritize employment for students who are cur-
cently or formerly homeless individuals described in sec-
tion 725 of the McKinney-Vento Homeless Assistance Act
(42 U.S.C. 11434a) or foster care youth” after “thereof”.

SEC. 14. EXCLUDABLE INCOME.

Section 480(e) of the Higher Education Act of 1965
(20 U.S.C. 1087vv(e)) is amended by striking paragraph
(5) and inserting the following:

“(5) payments made and services provided
under part E of title IV of the Social Security Act
to or on behalf of any child or youth over whom the
State agency has responsibility for placement, care,
or supervision, including the value of vouchers for
education and training and amounts expended for
room and board for youth who are not in foster care
but are receiving services under section 477 of such
Act; and’’.
SEC. 15. CONSOLIDATING QUESTIONS REGARDING HOMELESS STATUS ON THE FAFSA.
Section 483(a)(4) of the Higher Education Act of 1965 (20 U.S.C. 1090(a)(4)) is amended by adding at the end the following:

“(C) SINGLE QUESTION REGARDING HOMELESS STATUS.—The Secretary shall ensure that, on each form developed under this section for which the information is applicable, there is a single, easily understood screening question to identify an applicant for aid who is—

“(i) an unaccompanied homeless child or youth (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act); or

“(ii) an unaccompanied youth who is self-supporting and at risk of homelessness.”.

SEC. 16. DATA TRANSPARENCY ON THE NUMBER OF FINANCIAL AID APPLICANTS.
Section 483 of the Higher Education Act of 1965 (20 U.S.C. 1090) is amended by adding at the end the following:

“(i) DATA TRANSPARENCY ON THE NUMBER OF APPLICANTS.—
“(1) IN GENERAL.—The Secretary shall annually publish data on the number of individuals who apply for Federal student aid pursuant to this section who are homeless individuals described in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a), including unaccompanied youth, and foster care youth.

“(2) CONTENTS.—The data described in paragraph (1) with respect to homeless individuals shall include, at a minimum, for each application cycle—

“(A) the total number of all applicants who were determined to be (or to be at risk of becoming) unaccompanied homeless youth, under section 480(d)(1)(H);

“(B) the number of applicants described in subparagraph (A), disaggregated—

“(i) by State; and

“(ii) by the sources of determination as described in clauses (i) through (iv) of section 480(d)(1)(H); and

“(C) the number of undetermined requests for homelessness consideration, including statuses that remain unknown because no determination had been made in response to the applicant’s request for the institution to con-
consider the applicant’s special circumstance of being homeless.”.

SEC. 17. IN-STATE TUITION RATES FOR HOMELESS YOUTH AND FOSTER CARE YOUTH.

Section 135 of the Higher Education Act of 1965 (20 U.S.C. 1015d) is amended—

(1) in the section heading, by inserting “, HOMELESS YOUTH, AND FOSTER CARE YOUTH” after “CHILDREN”;

(2) in subsection (a)—

(A) by striking “(a) REQUIREMENT.—In the case” and inserting the following:

“(a) REQUIREMENT.—

“(1) ARMED FORCES.—In the case”; and

(B) by adding at the end the following:

“(2) HOMELESS YOUTH AND FOSTER CARE YOUTH.—In the case of a homeless youth or a foster care youth, such State shall not charge such individual tuition for attendance at a public institution of higher education in the State at a rate that is greater than the rate charged for residents of the State.”; and

(3) by striking subsections (c) and (d) and inserting the following:

“(c) EFFECTIVE DATE.—
“(1) ARMED FORCES.—With respect to an individual described in subsection (a)(1), this section shall take effect at each public institution of higher education in a State that receives assistance under this Act for the first period of enrollment at such institution that begins after July 1, 2009.

“(2) HOMELESS YOUTH AND FOSTER CARE YOUTH.—With respect to an individual described in subsection (a)(2), this section shall take effect at each public institution of higher education in a State that receives assistance under this Act for the first period of enrollment at such institution that begins during the first full award year following the date of enactment of the Higher Education Access and Success for Homeless and Foster Youth Act.

“(d) DEFINITIONS.—In this section:

“(1) ARMED FORCES.—The terms ‘armed forces’ and ‘active duty for a period of more than 30 days’ have the meanings given those terms in section 101 of title 10, United States Code.

“(2) HOMELESS YOUTH.—The term ‘homeless youth’ has the meaning given the term ‘homeless children and youths’ in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a).”
SEC. 18. SECRETARIAL SUPPORT AND GUIDANCE FOR HOMELESS YOUTH AND FOSTER CARE YOUTH.

Part B of title I (20 U.S.C. 1011 et seq.) is amended by adding at the end the following:

“SEC. 124. SECRETARIAL SUPPORT AND GUIDANCE FOR HOMELESS YOUTH AND FOSTER CARE YOUTH.

“(a) GUIDANCE.—Not later than 120 days after the date of enactment of the Higher Education Access and Success for Homeless and Foster Youth Act, the Secretary shall issue revised guidance for institutions and financial aid administrators regarding serving unaccompanied homeless individuals described in section 725 of the McKinney-Vento Homeless Assistance Act and individuals who are former foster care youth.

“(b) PROFESSIONAL DEVELOPMENT.—Beginning not later than 1 year after the date of enactment of the Higher Education Access and Success for Homeless and Foster Youth Act, the Secretary shall conduct an annual professional development or training program, such as a webinar, for liaisons described under section 485(n) and interested faculty or staff regarding postsecondary education services for such homeless individuals and foster care youth.
“(c) REPORT.—Not later than 1 year after the date of enactment of the Higher Education Access and Success for Homeless and Foster Youth Act, and not less than once every 5 years thereafter, the Secretary shall prepare and submit to Congress a report containing strategies used by institutions, financial aid administrators, and liaisons described under section 485(n) that were effective in meeting the needs of such homeless individuals and foster care youth, including strategies relating to streamlining financial aid policies and procedures and postsecondary education recruitment, retention, and completion.”.