

PROTECT ECONOMIC AND ACADEMIC FREEDOM ACT OF
2026

AUGUST 27, 2026.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. WALBERG, from the Committee on Education and Workforce,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 4795]

The Committee on Education and Workforce, to whom was referred the bill (H.R. 4795) to amend the Higher Education Act of 1965 to prohibit an institution that participates in a nonexpressive commercial boycott of Israel from being eligible for certain funds under that Act, to require an institution that participates in certain programs under that Act to certify that students are not unreasonably obstructed from participating in academic programs in Israel, and for other purposes having considered the same, reports favorably thereon with an amendment and recommends that the bill be as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Protect Economic and Academic Freedom Act of 2026”.

SEC. 2. INELIGIBILITY OF INSTITUTIONS OF HIGHER EDUCATION PARTICIPATING IN CERTAIN NONEXPRESSIVE COMMERCIAL BOYCOTTS.

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

“(30)(A) The institution will not engage in a nonexpressive commercial boycott of a major strategic partner of the United States.

“(B) For purposes of this paragraph:

“(i) The term ‘major strategic partner’ means, with respect to the United States—

- “(I) a country described in section 4 of Public Law 113–296; or
- “(II) an entity licensed or regulated by, or organized under the laws of, such a country.
- “(ii) The term ‘nonexpressive commercial boycott of a major strategic partner—
 - “(I) means a commercial action (including engaging in refusals to deal and terminating business activities) that—
 - “(aa) is intended to limit commercial relations with a major strategic partner; and
 - “(bb) is not based on a valid business reason; and
 - “(II) does not include actions described in regulations issued to provide for the exceptions described in section 1773(a)(2) of the Anti-Boycott Act of 2018 (50 U.S.C. 4842(a)(2)).”.

SEC. 3. ELIGIBILITY FOR TITLE VI FUNDS.

Title VI of the Higher Education Act of 1965 (20 U.S.C. 1121 et seq.) is amended by adding at the end the following new sections:

SEC. 639. INSTITUTIONAL CERTIFICATIONS.

“(a) ANNUAL REQUIREMENT FOR INSTITUTIONAL ELIGIBILITY.—Not later than July 31 of each calendar year beginning on or after the date of enactment of the Protect Economic and Academic Freedom Act of 2026, an institution of higher education participating or applying to participate in any program under this title shall submit to the Secretary the certification required under subsection (b). An institution that does not submit such certification by July 31 of a calendar year shall be ineligible to receive any funds under this title in the first fiscal year that begins after such July 31, including any funds under this title that would otherwise have been available to the institution in such fiscal year for a grant awarded during a previous fiscal year.

“(b) CERTIFICATION.—An institution shall certify to the Secretary that, for the period beginning on the date of such certification and ending on July 31 of the following year, the institution will—

“(1) permit students and faculty of the certifying institution to participate in academic programs, including conferences, teaching exchanges, cultural exchanges, study abroad programs, joint research, and other collaborative educational activities, in a major strategic partner (as defined in section 487(a)(30)) of the United States in the same manner, and under the same terms and conditions, as students and faculty of the institution are permitted to participate in academic programs in other foreign countries; and

“(2) permit students and faculty of postsecondary educational institutions in such a major strategic partner to participate in academic programs offered by the certifying institution, including conferences, teaching exchanges, cultural exchanges, study abroad programs, joint research, and other collaborative educational activities, in the same manner, and under the same terms and conditions, as students and faculty of other foreign postsecondary educational institutions that are not in such a major strategic partner.

“SEC. 639A. SENSE OF CONGRESS.

“It is the sense of Congress that limitations on cooperative efforts by institutions of higher education, consortia of such institutions, or partnerships between nonprofit educational organizations and institutions of higher education with a major strategic partner (as defined in section 487(a)(30)) of the United States do not serve the security, stability, and economic vitality of the United States.”.

PURPOSE

H.R. 4795, *Protect Economic and Academic Freedom Act of 2026*, amends the *Higher Education Act of 1965* (HEA) to prohibit an institution that participates in a nonexpressive commercial boycott of Israel from receiving federal student aid under Title IV of the HEA. The bill also requires an institution that receives funds under Title VI to allow students and faculty to participate in academic programs in Israel, and students and faculty from Israel to participate in academic programs at the institution, in the same manner in which the institution provides such access to institutions in other countries and students and faculty from other countries to the institution.

COMMITTEE ACTION

118TH CONGRESS

First Session—Hearings

On November 14, 2023, the Subcommittee on Higher Education and Workforce Development held a hearing titled “Confronting the Scourge of Antisemitism on Campus.” The purpose of the hearing was to discuss antisemitism on college campuses. Testifying before the Subcommittee were Rabbi Moshe Hauer, Executive Vice President, Orthodox Union, New York, New York; Mr. Kenneth L. Marcus, Founder and Chairman, Brandeis Center, Washington, D.C.; Ms. Stacy Burdett, Independent Consultant in Antisemitism Prevention and Response, Silver Spring, Maryland; and Ms. Sahar Tartak, Student, Yale University, New Haven, Connecticut.

On December 5, 2023, the full Committee held a hearing titled “Holding Campus Leaders Accountable and Confronting Antisemitism.” The purpose of the hearing was to discuss antisemitism on college campuses with key college presidents. Testifying before the Committee were Dr. Claudine Gay, President, Harvard University, Cambridge, Massachusetts; Ms. Liz Magill, President, University of Pennsylvania, Philadelphia, Pennsylvania; Dr. Pamela Nadell, Professor of History and Jewish Studies, American University, Washington, D.C.; and Dr. Sally Kornbluth, President, Massachusetts Institute of Technology, Cambridge, Massachusetts.

Second Session—Hearing

On May 23, 2024, the full Committee held a hearing titled “Calling for Accountability: Stopping Antisemitic College Chaos.” The purpose of the hearing was to examine antisemitism and responses to protest encampments on college campuses. Testifying before the Committee were Mr. Michael Schill, President, Northwestern University, Evanston, Illinois; Dr. Jonathan Holloway, President, Rutgers, the State University of New Jersey, New Brunswick, New Jersey; Mr. Frederick M. Lawrence, Secretary and CEO, Phi Beta Kappa Society, Washington, D.C.; and Dr. Gene Block, Chancellor, University of California at Los Angeles, Los Angeles, California.

Second Session—Legislative Action

On November 26, 2024, Representative Virginia Foxx (R-NC) introduced *Protect Economic Freedom Act* (H.R. 10257), which was referred solely to the Committee on Education and the Workforce.

119TH CONGRESS

First Session—Hearings

On May 7, 2025, the full Committee held a hearing titled “Beyond the Ivy League: Stopping the Spread of Antisemitism on American Campuses.” The purpose of the hearing was to examine the rise in antisemitism on college campuses beyond the Ivy League. Testifying before the Committee were Dr. Wendy Raymond, President, Haverford College, Haverford, Pennsylvania; Dr. Robert Manuel, President, DePaul University, Chicago, Illinois; Mr. David Cole, George J. Mitchell, Professor in Law and Public Policy, Georgetown University Law Center, Washington, D.C.; and Dr. Jef-

frey Armstrong, President, California Polytechnic State University, San Luis Obispo, California.

On July 15, 2025, the full Committee held a hearing titled “Anti-semitism in Higher Education: Examining the Role of Faculty, Funding, and Ideology.” The purpose of the hearing was to examine the main drivers of antisemitism on college campuses. Testifying before the Committee were Dr. Robert M. Groves, Interim President, Georgetown University, Washington, D.C.; Dr. Felix V. Matos Rodriguez, Chancellor, The City University of New York, New York, New York; Mr. Matt Nosanchuk, Principal, Mattnos Strategies, Washington, D.C.; Dr. Richard K. Lyons, Chancellor, University of California, Berkeley, Berkeley, California.

119TH CONGRESS

Legislative Action

On September 29, 2025, Representative Foxx introduced H.R. 4795, *Protect Economic and Academic Freedom Act of 2025*, which was referred solely to the Committee on Education and Workforce. On June 25, 2026, the Committee considered H.R. 4795 in legislative session and reported it favorably, as amended, to the House of Representatives by a recorded vote of 24–9. Representative Foxx offered an Amendment in the Nature of a Substitute that places the prohibition on engaging in a nonexpressive commercial boycott directly within the program participation agreement under Title IV of the HEA, removes the separate annual certification requirement for institutions, and removes the requirement that the Secretary of Education publish a list of institutions that did not comply with the annual certification requirement. The amendment passed by voice vote.

COMMITTEE VIEWS

INTRODUCTION

Antisemitism on college and university campuses has increased significantly in recent years, particularly following the October 7, 2023, terror attacks. During the 2024–2025 academic year, 2,334 antisemitic incidents were reported on college and university campuses nationwide, the highest number ever recorded.¹ Antisemitic incidents on college campuses increased by more than 700 percent between 2022 and 2025.² In addition, a 2025 survey found that 48.3 percent of non-Jewish students reported witnessing or experiencing anti-Jewish behavior on campus during the previous year, while 47.6 percent endorsed at least one anti-Jewish attitude.³

BACKGROUND ON THE BOYCOTT, DIVESTMENT, AND SANCTIONS (BDS) MOVEMENT

The BDS movement is a loose grouping of actors from various countries that advocate for or engage in economic measures targeting Israel or Israel-related individuals, organizations, and busi-

¹ <https://www.hillel.org/antisemitism-on-college-campus-es-incidents-tracking/>.

² Ibid.

³ <https://adl.org/resources/press-release/adls-2026-campus-antisemitism-report-card-reveals-significant-progress>.

nesses.⁴ The Arab League imposed a boycott of Jews in Mandatory Palestine beginning in 1945, three years before the establishment of the State of Israel. The modern BDS movement was founded in 2001 during the United Nations' World Conference Against Racism in Durban, South Africa.⁵ In July 2005, a coalition of Palestinian organizations adopted the BDS movement to call for the use of boycotts, divestment campaigns, and sanctions as a means of pressuring Israel to change its policies toward Palestinians.⁶ Specifically, the movement has "the call" for Israel to end its occupation and colonization of all Arab lands and dismantle the wall constructed by Israel along the border between Israel and the West Bank, and within the West Bank, to protect Israelis from Palestinian violence; recognize the fundamental rights of the Arab Palestinian citizens of Israel to full equality and respect; and protect and promote the rights of Palestinian refugees to return to their homes and properties as stipulated in UN Resolution 194.⁷

BDS campaigns frequently demand the "divestment" of university, municipal, church, union, and other investment portfolios from companies that advocates claim "aid Israel's occupation," as well as call for the "boycott" of Israeli products, professionals, professional associations and academic institutions, and artistic performances.⁸

In recent years, BDS-related activism has gained significant traction on American college and university campuses, particularly following the October 7, 2023, terror attacks. Student organizations, faculty groups, and unions have increasingly used BDS campaigns to pressure universities to alter investment practices and adopt policies aligned with the movement's objectives. This movement became substantially more widespread during the 2023–2024 academic year, as demonstrations, encampments, and divestment campaigns engulfed higher education.

Title VI of the HEA and the BDS Movement

Title VI of the HEA authorizes programs and funding for the Department of Education (ED) to award grants in support of international and foreign language studies.⁹ Part A of Title VI authorizes National Resource Centers that award four-year competitive grants to institutions of higher education to establish and maintain an infrastructure for providing international studies and modern foreign language instruction.¹⁰ Title VI programs have been a source of antisemitism in general, and the BDS movement specifically, on college campuses.

Georgetown's Title VI National Resource Center on the Middle East and North Africa (NRC–MENA) provides an illustrative example. The NRC–MENA operates the Center for Contemporary Arab Studies (CCAS), which has become a platform to promote antisemitism and the BDS movement. Three of CCAS' five "core" staff actively support the BDS movement.¹¹ Additionally, in December

⁴ https://www.everycrsreport.com/files/20191203_R44281_lc95dd528315abe4cb3528c526eae77488759f52.pdf.

⁵ <https://www.ajc.org/campusbds>.

⁶ *Ibid.*

⁷ <https://www.bdsmovement.net/call>.

⁸ <https://www.adl.org/resources/background/boycott-divestment-and-sanctions-campaign-bds>.

⁹ <https://www.congress.gov/crs-product/R46508>.

¹⁰ <https://www.congress.gov/crs-product/R46508>.

¹¹ Fida Adely; Marwa Daoudy; Rochelle A. Davis. <https://palestineandpraxis.weebly.com/>.

2023, CCAS signed an agreement for Georgetown to host the Middle East Studies Association (MESA). Today, MESA effectively functions as an anti-Israel advocacy group that has adopted a resolution endorsing BDS. Under the agreement, CCAS granted MESA space on its main campus at no cost.¹²

CCAS also runs an education outreach program that is partially supported by its NRC–MENA grant. In February 2025, CCAS co-hosted an event titled “Palestine in the Classroom”¹³ CCAS’ K–14 education outreach director, Susan Douglass, is an avowed BDS supporter. The Alwaleed Bin Talal Center for Muslim-Christian Understanding (Center) is part of Georgetown’s School of Foreign Service and is also part of NRC–MENA at Georgetown.¹⁴ The Center’s faculty consistently advance narratives that whitewash Islamism and demonize Israel, all while educating the next generation of government servants, producing reference works used across academia, and serving as consultants to policymakers, media, corporate executives, and others.¹⁵

BDS Campaigns and Resolutions on College Campuses

During the 2023–2024 academic year, at least 86 BDS resolutions were considered across undergraduate, graduate, and professional student organizations and faculty unions.¹⁶ Seventy-seven passed and nine were voted down. In November 2025, Cornell University’s graduate student union adopted a BDS resolution that called for resistance “by any means necessary.”¹⁷ Within the University of California (UC) system, United Auto Workers 4811, a union that represents thousands of academic workers, vowed to wage a campaign to pressure UC campuses to adopt BDS.¹⁸ At Northwestern University, faculty members and Northwestern’s provost were openly willing to appease encampment organizers in their efforts to demand the university boycott Sabra hummus because of the brand’s perception as an Israeli product.¹⁹ At Haverford College, administrators caved to the antisemitic blood libel demands of Students for the Liberation of Palestine to “Say No to Blood Donuts,” refusing to serve previously ordered donuts from Federal Donuts, a Jewish-Israeli owned chain, at Commencement in 2024.²⁰

BDS campaigns have been accompanied by allegations of harassment, intimidation, exclusion, and discrimination directed at students who identify as Jewish or express support for Israel.²¹ In April 2024, at a BDS hearing at the University of Albany, a student looked around and stated, “Those who do not support this (BDS) should feel unsafe on campus. I will make sure you do not

¹² <https://www.dropbox.com/scl/fi/kw4w8wuxj9ecwpevss7gp/How-Campuses-Became-Hotbeds-the-Rise-of-Radical-Antisemitism-on-College-Campuses.pdf?rlkey=tsuha6vybakp5oqlxhto1euth&e=2&st=08c027lp&dl=0>.

¹³ <https://ccas.georgetown.edu/resources/k-14-outreach/events-for-educators/>.

¹⁴ <https://ccas.georgetown.edu/about/national-resource-center-mena/>.

¹⁵ <https://isgap.org/wp-content/uploads/2025/06/FTM-GEORGETOWN-REPORT-2025-05-23-1.pdf>.

¹⁶ <https://www.adl.org/resources/report/anti-israel-activism-us-campuses-2023-2024>.

¹⁷ <https://www.timesofisrael.com/cornell-grad-student-union-approves-bds-resolution-backing-resistance-by-any-means/>.

¹⁸ <https://www.fairnesscenter.org/cases/yaniv-v-uaw-4811/>.

¹⁹ Text Message from Nour Kteily, Professor of Mgmt. and Org., Nw. U. Kellogg Sch. Of Mgmt., to Kathleen Hagerty, Provost, Nw. U (Apr. 27, 2024 3:18 AM) (on file with Comm.).

²⁰ <https://www.inquirer.com/education/haverford-president-email-tim-walberg-20250626.html>.

²¹ https://edworkforce.house.gov/uploadedfiles/10.30.24_committee_on_education_and_the_workforce_republican_staff_report_-_antisemitism_on_college_campuses_exposed.pdf.

feel safe.”²² In March 2024, anti-Israel protesters at Vanderbilt University shoved a security guard as they protested the university’s removal of a proposed amendment to align the school’s student government with the demands of the BDS movement.²³

BDS Legal Status

The core of the constitutional debate around BDS is whether anti-BDS legislation regulates economic conduct or political speech protected under the First Amendment.²⁴ Opponents contend that these boycotts are considered protected expressive conduct and collective political action, a classification established by Supreme Court cases involving nonviolent boycotts.²⁵ Conversely, proponents of anti-BDS legislation assert that such laws regulate commercial conduct and not political speech, with the state merely acting as a proprietor in contracting decisions.²⁶

The Supreme Court has heard numerous arguments on the balance between regulating boycott activity and free speech. In *NAACP v. Claiborne Hardware Co.* (1982),²⁷ the Supreme Court held that states may not prohibit peaceful political activities associated with a boycott, including speech, assembly, and advocacy. However, *Claiborne* did not establish a constitutional right to engage in all forms of boycott activity and instead distinguished between protected expressive conduct and economic activity that may be regulated by the government.

In a related case, *Rumsfeld v. Forum for Academic and Institutional Rights, Inc.* (2006),²⁸ the Supreme Court ruled that a law school treating military recruiters differently from other recruiters was not inherently expressive and thus that differential treatment was not protected by the First Amendment. The Supreme Court stated,

. . . law schools ‘expressed’ their disagreement with the military by treating military recruiters differently from other recruiters. But these actions were expressive only because the law schools accompanied their conduct with speech explaining it . . . An observer who sees military recruiters interviewing away from the law school has no way of knowing whether the law school is expressing its disapproval of the military, all the law school’s interview rooms are full, or the military recruiters decided for reasons of their own that they would rather interview someplace else . . . The expressive component of a law school’s action is not created by the conduct itself but by the speech that accompanies it.²⁹

²² Ibid.

²³ <https://www.adl.org/resources/report/anti-israel-activism-us-campuses-2023-2024>.

²⁴ <https://legalclarity.org/anti-bds-bill-and-state-laws-constitutional-challenges/>.

²⁵ Ibid.

²⁶ Ibid.

²⁷ *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886 (1982).

²⁸ <https://supreme.justia.com/cases/federal/us/547/47/#tab-opinion-1962043>.

²⁹ <https://supreme.justia.com/cases/federal/us/547/47/#tab-opinion-1962043>.

The Supreme Court ruled that there was a “substantial government interest” in requiring equal treatment of military recruiters on college campuses and ruled against the law school.³⁰

This distinction between expressive activity and other activity was central to the U.S. Court of Appeals for the Eighth Circuit’s decision in *Arkansas Times LP v. Waldrip* (2022),³¹ which upheld Arkansas Act 710. That law prohibits state entities from contracting with private companies unless the contract includes a certification that the company “is not currently engaged in, and agrees for the duration of the contract not to engage in, a boycott of Israel.”³² The court rejected the argument that the statute violated the First Amendment by restricting participation in boycotts of Israel. In doing so, the court explained that *Claiborne* protected the expressive activities accompanying a boycott, not the commercial decision itself to refuse to do business with a particular entity.

The court emphasized that states retain broad authority to regulate economic activity and concluded that the Arkansas law targeted discriminatory commercial conduct rather than political expression. The Eighth Circuit further reasoned that Arkansas’s law did not prohibit individuals or organizations from criticizing Israel, advocating for a boycott, or protesting the law itself. Rather, the statute prohibited certain contracting entities from engaging in economic decisions that discriminate against Israel. Because such purchasing and contracting decisions are not inherently expressive and generally convey no message unless accompanied by additional speech, the court concluded that the law regulated non-expressive commercial conduct that does not implicate the First Amendment in the same manner as political advocacy.

ISRAEL DESIGNATION AS “MAJOR STRATEGIC PARTNER”

Antisemitism is deeply concerning and simultaneously undermines Israel’s unique relationship with the United States. Israel has been designated as a “major strategic partner” of the United States, which is a unique designation. This designation came from the 2014 *United States-Israel Strategic Partnership Act*, signed by President Obama and introduced by former California Senator Barbara Boxer (D-CA).³³ The bill was passed by unanimous consent in the Senate and by voice vote in the House.

TRUMP ADMINISTRATION EFFORTS TO COMBAT ANTISEMITISM

During the first Trump administration, President Trump issued Executive Order (EO) 13899, *Combating Anti-Semitism*.³⁴ The EO directed federal agencies enforcing Title VI to consider antisemitic discrimination as a form of prohibited discrimination based on race, color, or national origin when appropriate. The Order also instructed agencies to consider the International Holocaust Remembrance Alliance’s (IHRA) Working Definition of Antisemitism and the “Contemporary Examples of Anti-Semitism” identified by IHRA.

³⁰ <https://supreme.justia.com/cases/federal/us/547/47/#tab-opinion-1962043>.

³¹ *Arkansas Times LP v. Waldrip*, 37 F.4th 1386 (8th Cir. 2022).

³² *Ibid.*

³³ <https://www.congress.gov/bill/113th-congress/senate-bill/2673>.

³⁴ <https://trumpwhitehouse.archives.gov/presidential-actions/executive-order-combating-anti-semitism/>.

On January 29, 2025, President Trump issued EO 14188, *Additional Measures to Combat Anti-Semitism*, which reaffirmed EO 13899 and directed federal agencies, including ED, to identify and utilize available civil and criminal enforcement authorities to address antisemitic harassment and discrimination. The EO specifically cited reports of harassment, intimidation, and exclusion of Jewish students on college campuses and directed agencies to take additional actions to enforce federal civil rights laws. Following EO 14188, the Department of Justice established a multi-agency Task Force to Combat Antisemitism. The Task Force includes representatives from the Departments of Justice, ED, Health and Human Services, and other federal agencies and identified addressing antisemitic harassment in schools as a priority.³⁵

CONCLUSION

Given the dangers of antisemitism and the BDS movement, Congress should advance reforms to ensure institutions do not engage in harmful economic boycotts of Israel, a key ally of the United States that bears the unique designation of a “major strategic partner.” Additionally, Jewish students should not be isolated or harassed simply because they are Jewish. H.R. 4795 sends a strong message that American colleges and universities should not be hotbeds for antisemitic actions or boycotts.

SUMMARY

H.R. 4795 SECTION-BY-SECTION

Section 1. Short Title

Identifies the short title as *Protect Economic and Academic Freedom Act of 2026*.

Section 2. Ineligibility of Institutions of Higher Education Participating in Certain Non-Expressive Commercial Boycotts

- Amends the program participation agreement with a requirement for institutions to not engage in a nonexpressive commercial boycott of a major strategic partner of the United States.
- Defines “major strategic partner.”
- Defines “nonexpressive commercial boycott.”

Section 3. Eligibility for HEA Title VI Funds

- Requires institutions receiving funds under Title VI to annually certify by July 31 of each calendar year that the institution will do the following:
 - Permit students and faculty of the certifying institution to participate in academic programs in a major strategic partner in the same manner and under the same terms and conditions as students and faculty are permitted to participate in academic programs in other foreign countries.
 - Permit students and faculty of postsecondary institutions located in a major strategic partner the ability to participate in academic programs offered by the certifying institution in the same manner and under the same terms and conditions as

³⁵ <https://www.justice.gov/opa/pr/justice-department-announces-formation-task-force-combat-anti-semitism>.

students and faculty of other postsecondary institutions located in other foreign countries.

- Includes a sense of Congress that limitations on cooperative efforts by institutions of higher education, consortia of such institutions, or partnerships between nonprofit educational organizations and institutions of higher education with a major strategic partner do not serve the security, stability, and economic vitality of the United States.

EXPLANATION OF AMENDMENTS

The amendment in the nature of a substitute is explained in the body of this report.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch. H.R. 4795 amends the *Higher Education Act of 1965* to prohibit an institution of higher education that participates in a nonexpressive commercial boycott of Israel from being eligible for Title IV funds. H.R. 4795 applies only to institutions of higher education and therefore does not apply to the Legislative Branch.

UNFUNDED MANDATE STATEMENT

Pursuant to section 423 of the *Congressional Budget and Impoundment Control Act of 1974*, Pub. L. No. 93–44 (as amended by section 101(a)(2) of the *Unfunded Mandates Reform Act of 1995*, Pub. L. No. 104–4), the Committee traditionally adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office (CBO) pursuant to section 402 of the *Congressional Budget and Impoundment Control Act of 1974*. The Committee reports that because this cost estimate was not timely submitted to the Committee before the filing of this report, the Committee is not in a position to make a cost estimate for H.R. 4795.

EARMARK STATEMENT

H.R. 4795 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of House rule XXI.

ROLL CALL VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee Report to include for each record vote on a motion to report the measure or matter and on any amendments offered to the measure or matter the total number of votes for and against and the names of the Members voting for and against.

Date: 6/25/2026

COMMITTEE ON EDUCATION AND WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call: 2

Bill: H.R. 4795

Amendment Number: N/A

Disposition: Adopted by a Full Committee Roll Call Vote

Sponsor/Amendment: Motion to report; as amended

Rep. Foxx (NC)

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. WALBERG (MI) (Chairman)	X			Mr. SCOTT (VA) (Ranking)	X		
Mr. WILSON (SC)	X			Mr. COURTNEY (CT)	X		
Mrs. FOXX (NC)	X			Ms. WILSON (FL)		X	
Mr. THOMPSON (PA)			X	Ms. BONAMICI (OR)		X	
Mr. GROTHMAN (WI)	X			Mr. TAKANO (CA)		X	
Ms. STEFANIK (NY)	X			Ms. ADAMS (NC)		X	
Mr. ALLEN (GA)	X			Mr. DESAULNIER (CA)			X
Mr. COMER (KY)	X			Mr. NORCROSS (NJ)	X		
Mr. OWENS (UT)	X			Ms. MCBATH (GA)		X	
Ms. MCCLAIN (MI)	X			Ms. HAYES (CT)	X		
Mrs. MILLER (IL)	X			Ms. OMAR (MN)		X	
Ms. LETLOW (LA)			X	Ms. STEVENS (MI)	X		
Mr. KILEY (CA)	X			Mr. CASAR (TX)		X	
Mr. RULLI (OH)			X	Ms. LEE (PA)		X	
Mr. MOYLAN (GU)	X			Mr. MANNION (NY)	X		
Mr. ONDER (MO)	X			Ms. GRIJALVA (AZ)		X	
Mr. MACKENZIE (PA)	X						
Mr. BAUMGARTNER (WA)	X						
Mr. HARRIS (NC)	X						
Mr. MESSMER (IN)	X						
Mr. FINE (FL)	X						

TOTALS: Ayes: 24

Nos: 9

Not Voting: 4

Total: 37 / Quorum: 33 Report: Passed

(21 R - 16 D)

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause (3)(c) of rule XIII of the Rules of the House of Representatives, the goal of H.R. 4795 is to amend the *Higher Education Act of 1965* to prohibit an institution that participates in a nonexpressive commercial boycott of Israel from being eligible for certain funds under that Act, and to require an institution that participates in certain programs under that Act to certify that students are not unreasonably obstructed from participating in academic programs in Israel.

DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 4795 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the body of this report.

REQUIRED COMMITTEE HEARING

In compliance with clause 3(c)(6) of rule XIII the following hearing held during the 119th Congress was used to develop or consider H.R. 4795: On July 15, 2025, the Committee held a hearing titled "Antisemitism in Higher Education: Examining the Role of Faculty, Funding, and Ideology."

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974*, and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, a cost estimate was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the Congressional Record upon its receipt by the Committee.

COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 4795. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when, as with the present report, the Committee has requested a cost estimate for the bill from the Director of the Congressional Budget Office.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

HIGHER EDUCATION ACT OF 1965

* * * * *

TITLE IV—STUDENT ASSISTANCE

* * * * *

PART G—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

* * * * *

SEC. 487. PROGRAM PARTICIPATION AGREEMENTS.

(a) **REQUIRED FOR PROGRAMS OF ASSISTANCE; CONTENTS.**—In order to be an eligible institution for the purposes of any program authorized under this title, an institution must be an institution of higher education or an eligible institution (as that term is defined for the purpose of that program) and shall, except with respect to a program under subpart 4 of part A, enter into a program participation agreement with the Secretary. The agreement shall condition the initial and continuing eligibility of an institution to participate in a program upon compliance with the following requirements:

(1) The institution will use funds received by it for any program under this title and any interest or other earnings thereon solely for the purpose specified in and in accordance with the provision of that program.

(2) The institution shall not charge any student a fee for processing or handling any application, form, or data required to determine the student's eligibility for assistance under this title or the amount of such assistance.

(3) The institution will establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of funds received from the Secretary or from students under this title, together with assurances that the institution will provide, upon request and in a timely fashion, information relating to the administrative capability and financial responsibility of the institution to—

- (A) the Secretary;
- (B) the appropriate guaranty agency; and
- (C) the appropriate accrediting agency or association.

(4) The institution will comply with the provisions of subsection (c) of this section and the regulations prescribed under that subsection, relating to fiscal eligibility.

(5) The institution will submit reports to the Secretary and, in the case of an institution participating in a program under part B or part E, to holders of loans made to the institution's students under such parts at such times and containing such

information as the Secretary may reasonably require to carry out the purpose of this title.

(6) The institution will not provide any student with any statement or certification to any lender under part B that qualifies the student for a loan or loans in excess of the amount that student is eligible to borrow in accordance with sections 425(a), 428(a)(2), and 428(b)(1) (A) and (B).

(7) The institution will comply with the requirements of section 485.

(8) In the case of an institution that advertises job placement rates as a means of attracting students to enroll in the institution, the institution will make available to prospective students, at or before the time of application (A) the most recent available data concerning employment statistics, education statistics, and any other information necessary to substantiate the truthfulness of the advertisements, and (B) relevant State licensing requirements of the State in which such institution is located for any job for which the course of instruction is designed to prepare such prospective students.

(9) In the case of an institution participating in a program under part B or D, the institution will inform all eligible borrowers enrolled in the institution about the availability and eligibility of such borrowers for State grant assistance from the State in which the institution is located, and will inform such borrowers from another State of the source for further information concerning such assistance from that State.

(10) The institution certifies that it has in operation a drug abuse prevention program that is determined by the institution to be accessible to any officer, employee, or student at the institution.

(11) In the case of any institution whose students receive financial assistance pursuant to section 484(d), the institution will make available to such students a program proven successful in assisting students in obtaining a certificate of high school equivalency.

(12) The institution certifies that—

(A) the institution has established a campus security policy; and

(B) the institution has complied with the disclosure requirements of section 485(f).

(13) The institution will not deny any form of Federal financial aid to any student who meets the eligibility requirements of this title on the grounds that the student is participating in a program of study abroad approved for credit by the institution.

(14)(A) The institution, in order to participate as an eligible institution under part B or D, will develop a Default Management Plan for approval by the Secretary as part of its initial application for certification as an eligible institution and will implement such Plan for two years thereafter.

(B) Any institution of higher education which changes ownership and any eligible institution which changes its status as a parent or subordinate institution shall, in order to participate as an eligible institution under part B or D, develop a Default Management Plan for approval by the Secretary and im-

plement such Plan for two years after its change of ownership or status.

(C) This paragraph shall not apply in the case of an institution in which (i) neither the parent nor the subordinate institution has a cohort default rate in excess of 10 percent, and (ii) the new owner of such parent or subordinate institution does not, and has not, owned any other institution with a cohort default rate in excess of 10 percent.

(15) The institution acknowledges the authority of the Secretary, guaranty agencies, lenders, accrediting agencies, the Secretary of Veterans Affairs, and the State agencies under subpart 1 of part H to share with each other any information pertaining to the institution's eligibility to participate in programs under this title or any information on fraud and abuse.

(16)(A) The institution will not knowingly employ an individual in a capacity that involves the administration of programs under this title, or the receipt of program funds under this title, who has been convicted of, or has pled *nolo contendere* or guilty to, a crime involving the acquisition, use, or expenditure of funds under this title, or has been judicially determined to have committed fraud involving funds under this title or contract with an institution or third party servicer that has been terminated under section 432 involving the acquisition, use, or expenditure of funds under this title, or who has been judicially determined to have committed fraud involving funds under this title.

(B) The institution will not knowingly contract with or employ any individual, agency, or organization that has been, or whose officers or employees have been—

(i) convicted of, or pled *nolo contendere* or guilty to, a crime involving the acquisition, use, or expenditure of funds under this title; or

(ii) judicially determined to have committed fraud involving funds under this title.

(17) The institution will complete surveys conducted as a part of the Integrated Postsecondary Education Data System (IPEDS) or any other Federal postsecondary institution data collection effort, as designated by the Secretary, in a timely manner and to the satisfaction of the Secretary.

(18) The institution will meet the requirements established pursuant to section 485(g).

(19) The institution will not impose any penalty, including the assessment of late fees, the denial of access to classes, libraries, or other institutional facilities, or the requirement that the student borrow additional funds, on any student because of the student's inability to meet his or her financial obligations to the institution as a result of the delayed disbursement of the proceeds of a loan made under this title due to compliance with the provisions of this title, or delays attributable to the institution.

(20) The institution will not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student fi-

nancial assistance, except that this paragraph shall not apply to the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance.

(21) The institution will meet the requirements established by the Secretary and accrediting agencies or associations, and will provide evidence to the Secretary that the institution has the authority to operate within a State.

(22) The institution will comply with the refund policy established pursuant to section 484B.

(23)(A) The institution, if located in a State to which section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)) does not apply, will make a good faith effort to distribute a mail voter registration form, requested and received from the State, to each student enrolled in a degree or certificate program and physically in attendance at the institution, and to make such forms widely available to students at the institution.

(B) The institution shall request the forms from the State 120 days prior to the deadline for registering to vote within the State. If an institution has not received a sufficient quantity of forms to fulfill this section from the State within 60 days prior to the deadline for registering to vote in the State, the institution shall not be held liable for not meeting the requirements of this section during that election year.

(C) This paragraph shall apply to general and special elections for Federal office, as defined in section 301(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(3)), and to the elections for Governor or other chief executive within such State).

(D) The institution shall be considered in compliance with the requirements of subparagraph (A) for each student to whom the institution electronically transmits a message containing a voter registration form acceptable for use in the State in which the institution is located, or an Internet address where such a form can be downloaded, if such information is in an electronic message devoted exclusively to voter registration.

(24) In the case of a proprietary institution of higher education (as defined in section 102(b)), such institution will derive not less than ten percent of such institution's revenues from sources other than Federal funds that are disbursed or delivered to or on behalf of a student to be used to attend such institution (referred to in this paragraph and subsection (d) as "Federal education assistance funds"), as calculated in accordance with subsection (d)(1), or will be subject to the sanctions described in subsection (d)(2).

(25) in the case of an institution that participates in a loan program under this title, the institution will—

(A) develop a code of conduct with respect to such loans with which the institution's officers, employees, and agents shall comply, that—

(i) prohibits a conflict of interest with the responsibilities of an officer, employee, or agent of an institution with respect to such loans; and

(ii) at a minimum, includes the provisions described in subsection (e);

(B) publish such code of conduct prominently on the institution's website; and

(C) administer and enforce such code by, at a minimum, requiring that all of the institution's officers, employees, and agents with responsibilities with respect to such loans be annually informed of the provisions of the code of conduct.

(26) The institution will, upon written request, disclose to the alleged victim of any crime of violence (as that term is defined in section 16 of title 18, United States Code), or a nonforcible sex offense, the report on the results of any disciplinary proceeding conducted by such institution against a student who is the alleged perpetrator of such crime or offense with respect to such crime or offense. If the alleged victim of such crime or offense is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

(27) in the case of an institution that has entered into a preferred lender arrangement, the institution will at least annually compile, maintain, and make available for students attending the institution, and the families of such students, a list, in print or other medium, of the specific lenders for loans made, insured, or guaranteed under this title or private education loans that the institution recommends, promotes, or endorses in accordance with such preferred lender arrangement. In making such list, the institution shall comply with the requirements of subsection (h).

(28)(A) The institution will, upon the request of an applicant for a private education loan, provide to the applicant the form required under section 128(e)(3) of the Truth in Lending Act (15 U.S.C. 1638(e)(3)), and the information required to complete such form, to the extent the institution possesses such information.

(B) For purposes of this paragraph, the term "private education loan" has the meaning given such term in section 140 of the Truth in Lending Act.

(29) The institution certifies that the institution—

(A) has developed plans to effectively combat the unauthorized distribution of copyrighted material, including through the use of a variety of technology-based deterrents; and

(B) will, to the extent practicable, offer alternatives to illegal downloading or peer-to-peer distribution of intellectual property, as determined by the institution in consultation with the chief technology officer or other designated officer of the institution.

(30)(A) *The institution will not engage in a nonexpressive commercial boycott of a major strategic partner of the United States.*

(B) *For purposes of this paragraph:*

(i) *The term "major strategic partner" means, with respect to the United States—*

(I) a country described in section 4 of Public Law 113–296; or

(II) an entity licensed or regulated by, or organized under the laws of, such a country.

(ii) The term “nonexpressive commercial boycott of a major strategic partner”—

(I) means a commercial action (including engaging in rehearsals to deal and terminating business activities)

(aa) is intended to limit commercial relations with a major strategic partner; and

(bb) is not based on a valid business reason;

(II) does not include actions described in regulations issued to provide for the exceptions described in section 1773(a)(2) of the Anti-Boycott Act of 2018 (50 U.S.C. 4842(a)(2)).

(b) **HEARINGS.**—(1) An institution that has received written notice of a final audit or program review determination and that desires to have such determination reviewed by the Secretary shall submit to the Secretary a written request for review not later than 45 days after receipt if notification of the final audit or program review determination.

(2) The Secretary shall, upon receipt of written notice under paragraph (1), arrange for a hearing and notify the institution within 30 days of receipt of such notice the date, time, and place of such hearing. Such hearing shall take place not later than 120 days from the date upon which the Secretary notifies the institution.

(c) **AUDITS; FINANCIAL RESPONSIBILITY; ENFORCEMENT OF STANDARDS.**—(1) Notwithstanding any other provisions of this title, the Secretary shall prescribe such regulations as may be necessary to provide for—

(A)(i) except as provided in clauses (ii) and (iii), a financial audit of an eligible institution with regard to the financial condition of the institution in its entirety, and a compliance audit of such institution with regard to any funds obtained by it under this title or obtained from a student or a parent who has a loan insured or guaranteed by the Secretary under this title, on at least an annual basis and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary and shall be available to cognizant guaranty agencies, eligible lenders, State agencies, and the appropriate State agency notifying the Secretary under subpart 1 of part H, except that the Secretary may modify the requirements of this clause with respect to institutions of higher education that are foreign institutions, and may waive such requirements with respect to a foreign institution whose students receive less than \$500,000 in loans under this title during the award year preceding the audit period;

(ii) with regard to an eligible institution which is audited under chapter 75 of title 31, United States Code, deeming such

audit to satisfy the requirements of clause (i) for the period covered by such audit; or

(iii) at the discretion of the Secretary, with regard to an eligible institution (other than an eligible institution described in section 102(a)(1)(C)) that has obtained less than \$200,000 in funds under this title during each of the 2 award years that precede the audit period and submits a letter of credit payable to the Secretary equal to not less than 1/2 of the annual potential liabilities of such institution as determined by the Secretary, deeming an audit conducted every 3 years to satisfy the requirements of clause (i), except for the award year immediately preceding renewal of the institution's eligibility under section 498(g);

(B) in matters not governed by specific program provisions, the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid under this title, including any matter the Secretary deems necessary to the sound administration of the financial aid programs, such as the pertinent actions of any owner, shareholder, or person exercising control over an eligible institution;

(C)(i) except as provided in clause (ii), a compliance audit of a third party servicer (other than with respect to the servicer's functions as a lender if such functions are otherwise audited under this part and such audits meet the requirements of this clause), with regard to any contract with an eligible institution, guaranty agency, or lender for administering or servicing any aspect of the student assistance programs under this title, at least once every year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a third party servicer that is audited under chapter 75 of title 31, United States Code, such audit shall be deemed to satisfy the requirements of clause (i) for the period covered by such audit;

(D)(i) a compliance audit of a secondary market with regard to its transactions involving, and its servicing and collection of, loans made under this title, at least once a year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a secondary market that is audited under chapter 75 of title 31, United States Code, such audit shall be deemed to satisfy the requirements of clause (i) for the period covered by the audit;

(E) the establishment, by each eligible institution under part B responsible for furnishing to the lender the statement re-

quired by section 428(a)(2)(A)(i), of policies and procedures by which the latest known address and enrollment status of any student who has had a loan insured under this part and who has either formally terminated his enrollment, or failed to re-enroll on at least a half-time basis, at such institution, shall be furnished either to the holder (or if unknown, the insurer) of the note, not later than 60 days after such termination or failure to re-enroll:

(F) the limitation, suspension, or termination of the participation in any program under this title of an eligible institution, or the imposition of a civil penalty under paragraph (3)(B) whenever the Secretary has determined, after reasonable notice and opportunity for hearing, that such institution has violated or failed to carry out any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation, except that no period of suspension under this section shall exceed 60 days unless the institution and the Secretary agree to an extension or unless limitation or termination proceedings are initiated by the Secretary within that period of time;

(G) an emergency action against an institution, under which the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to the institution (by registered mail, return receipt requested), withhold funds from the institution or its students and withdraw the institution's authority to obligate funds under any program under this title, if the Secretary—

(i) receives information, determined by the Secretary to be reliable, that the institution is violating any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation,

(ii) determines that immediate action is necessary to prevent misuse of Federal funds, and

(iii) determines that the likelihood of loss outweighs the importance of the procedures prescribed under subparagraph (D) for limitation, suspension, or termination, except that an emergency action shall not exceed 30 days unless limitation, suspension, or termination proceedings are initiated by the Secretary against the institution within that period of time, and except that the Secretary shall provide the institution an opportunity to show cause, if it so requests, that the emergency action is unwarranted;

(H) the limitation, suspension, or termination of the eligibility of a third party servicer to contract with any institution to administer any aspect of an institution's student assistance program under this title, or the imposition of a civil penalty under paragraph (3)(B), whenever the Secretary has determined, after reasonable notice and opportunity for a hearing, that such organization, acting on behalf of an institution, has violated or failed to carry out any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation, except that no period of suspension under this subparagraph shall exceed 60 days unless the organization and the Secretary agree to an extension,

or unless limitation or termination proceedings are initiated by the Secretary against the individual or organization within that period of time; and

(I) an emergency action against a third party servicer that has contracted with an institution to administer any aspect of the institution's student assistance program under this title, under which the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to such individual or organization (by registered mail, return receipt requested), withhold funds from the individual or organization and withdraw the individual or organization's authority to act on behalf of an institution under any program under this title, if the Secretary—

- (i) receives information, determined by the Secretary to be reliable, that the individual or organization, acting on behalf of an institution, is violating any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation,
- (ii) determines that immediate action is necessary to prevent misuse of Federal funds, and
- (iii) determines that the likelihood of loss outweighs the importance of the procedures prescribed under subparagraph (F), for limitation, suspension, or termination,

except that an emergency action shall not exceed 30 days unless the limitation, suspension, or termination proceedings are initiated by the Secretary against the individual or organization within that period of time, and except that the Secretary shall provide the individual or organization an opportunity to show cause, if it so requests, that the emergency action is unwarranted.

(2) if an individual who, or entity that, exercises substantial control, as determined by the Secretary in accordance with the definition of substantial control in subpart 3 of part H, over one or more institutions participating in any program under this title, or, for purposes of paragraphs (1) (H) and (I), over one or more organizations that contract with an institution to administer any aspect of the institution's student assistance program under this title, is determined to have committed one or more violations of the requirements of any program under this title, or has been suspended or debarred in accordance with the regulations of the Secretary, the Secretary may use such determination, suspension, or debarment as the basis for imposing an emergency action, on limiting, suspending, or terminating, in a single proceeding, the participation of any or all institutions under the substantial control of that individual or entity.

(3)(A) Upon determination, after reasonable notice and opportunity for a hearing, that an eligible institution has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates, the Secretary may suspend or terminate the eligibility status for any or all programs under this title of any otherwise eligible institution, in accordance with procedures specified in paragraph (1)(D) of this subsection, until the Secretary finds that such practices have been corrected.

(B)(i) Upon determination, after reasonable notice and opportunity for a hearing, that an eligible institution—

(I) has violated or failed to carry out any provision of this title or any regulation prescribed under this title; or

(II) has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, and the employability of its graduates,
the Secretary may impose a civil penalty upon such institution of not to exceed \$25,000 for each violation or misrepresentation.

(ii) Any civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the institution of higher education subject to the determination, and the gravity of the violation, failure, or misrepresentation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the institution charged.

(4) The Secretary shall publish a list of State agencies which the Secretary determines to be reliable authority as to the quality of public postsecondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistance programs.

(5) The Secretary shall make readily available to appropriate guaranty agencies, eligible lenders, state agencies notifying the Secretary under subpart 1 of part H, and accrediting agencies or associations the results of the audits of eligible institutions conducted pursuant to paragraph (1)(A).

(6) The Secretary is authorized to provide any information collected as a result of audits conducted under this section, together with audit information collected by guaranty agencies, to any Federal or State agency having responsibilities with respect to student financial assistance, including those referred to in subsection (a)(15) of this section.

(7) Effective with respect to any audit conducted under this subsection after December 31, 1988, if, in the course of conducting any such audit, the personnel of the Department of Education discover, or are informed of, grants or other assistance provided by an institution in accordance with this title for which the institution has not received funds appropriated under this title (in the amount necessary to provide such assistance), including funds for which reimbursement was not requested prior to such discovery or information, such institution shall be permitted to offset that amount against any sums determined to be owed by the institution pursuant to such audit, or to receive reimbursement for that amount (if the institution does not owe any such sums).

(d) IMPLEMENTATION OF NON-FEDERAL REVENUE REQUIREMENT.—

(1) CALCULATION.—In making calculations under subsection (a)(24), a proprietary institution of higher education shall—

(A) use the cash basis of accounting, except in the case of loans described in subparagraph (D)(i) that are made by the proprietary institution of higher education;

(B) consider as revenue only those funds generated by the institution from—

(i) tuition, fees, and other institutional charges for students enrolled in programs eligible for assistance under this title;

(ii) activities conducted by the institution that are necessary for the education and training of the institution's students, if such activities are—

(I) conducted on campus or at a facility under the control of the institution;

(II) performed under the supervision of a member of the institution's faculty; and

(III) required to be performed by all students in a specific educational program at the institution;

(iii) funds paid by a student, or on behalf of a student by a party other than the institution, for an education or training program that is not eligible for funds under this title, if the program—

(I) is approved or licensed by the appropriate State agency;

(II) is accredited by an accrediting agency recognized by the Secretary; or

(III) provides an industry-recognized credential or certification;

(C) presume that any Federal education assistance funds that are disbursed or delivered to or on behalf of a student will be used to pay the student's tuition, fees, or other institutional charges, regardless of whether the institution credits those funds to the student's account or pays those funds directly to the student, except to the extent that the student's tuition, fees, or other institutional charges are satisfied by—

(i) grant funds provided by non-Federal public agencies or private sources independent of the institution;

(ii) funds provided under a contractual arrangement with a Federal, State, or local government agency for the purpose of providing job training to low-income individuals who are in need of that training;

(iii) funds used by a student from savings plans for educational expenses established by or on behalf of the student and which qualify for special tax treatment under the Internal Revenue Code of 1986; or

(iv) institutional scholarships described in subparagraph (D)(iii);

(D) include institutional aid as revenue to the school only as follows:

(i) in the case of loans made by a proprietary institution of higher education on or after July 1, 2008, and prior to July 1, 2012, the net present value of such loans made by the institution during the applicable institutional fiscal year accounted for on an accrual basis and estimated in accordance with generally accepted accounting principles and related standards and guidance, if the loans—

(I) are bona fide as evidenced by enforceable promissory notes;

(II) are issued at intervals related to the institution's enrollment periods; and

(III) are subject to regular loan repayments and collections;

(ii) in the case of loans made by a proprietary institution of higher education on or after July 1, 2012, only the amount of loan repayments received during the applicable institutional fiscal year, excluding repayments on loans made and accounted for as specified in clause (i); and

(iii) in the case of scholarships provided by a proprietary institution of higher education, only those scholarships provided by the institution in the form of monetary aid or tuition discounts based upon the academic achievements or financial need of students, disbursed during each fiscal year from an established restricted account, and only to the extent that funds in that account represent designated funds from an outside source or from income earned on those funds;

(E) in the case of each student who receives a loan on or after July 1, 2008, and prior to July 1, 2011, that is authorized under section 428H or that is a Federal Direct Unsubsidized Stafford Loan, treat as revenue received by the institution from sources other than funds received under this title, the amount by which the disbursement of such loan received by the institution exceeds the limit on such loan in effect on the day before the date of enactment of the Ensuring Continued Access to Student Loans Act of 2008; and

(F) exclude from revenues—

(i) the amount of funds the institution received under part C, unless the institution used those funds to pay a student's institutional charges;

(ii) the amount of funds the institution received under subpart 4 of part A;

(iii) the amount of funds provided by the institution as matching funds for a program under this title;

(iv) the amount of funds provided by the institution for a program under this title that are required to be refunded or returned; and

(v) the amount charged for books, supplies, and equipment, unless the institution includes that amount as tuition, fees, or other institutional charges.

(2) SANCTIONS.—

(A) INELIGIBILITY.—A proprietary institution of higher education that fails to meet a requirement of subsection (a)(24) for two consecutive institutional fiscal years shall be ineligible to participate in the programs authorized by this title for a period of not less than two institutional fiscal years. To regain eligibility to participate in the programs authorized by this title, a proprietary institution of higher education shall demonstrate compliance with all eligibility and certification requirements under section 498

for a minimum of two institutional fiscal years after the institutional fiscal year in which the institution became ineligible.

(B) ADDITIONAL ENFORCEMENT.—In addition to such other means of enforcing the requirements of this title as may be available to the Secretary, if a proprietary institution of higher education fails to meet a requirement of subsection (a)(24) for any institutional fiscal year, then the institution's eligibility to participate in the programs authorized by this title becomes provisional for the two institutional fiscal years after the institutional fiscal year in which the institution failed to meet the requirement of subsection (a)(24), except that such provisional eligibility shall terminate—

(i) on the expiration date of the institution's program participation agreement under this subsection that is in effect on the date the Secretary determines that the institution failed to meet the requirement of subsection (a)(24); or

(ii) in the case that the Secretary determines that the institution failed to meet a requirement of subsection (a)(24) for two consecutive institutional fiscal years, on the date the institution is determined ineligible in accordance with subparagraph (A).

(3) PUBLICATION ON COLLEGE NAVIGATOR WEBSITE.—The Secretary shall publicly disclose on the College Navigator website—

(A) the identity of any proprietary institution of higher education that fails to meet a requirement of subsection (a)(24); and

(B) the extent to which the institution failed to meet such requirement.

(4) REPORT TO CONGRESS.—Not later than July 1, 2009, and July 1 of each succeeding year, the Secretary shall submit to the authorizing committees a report that contains, for each proprietary institution of higher education that receives assistance under this title, as provided in the audited financial statements submitted to the Secretary by each institution pursuant to the requirements of subsection (a)(24)—

(A) the amount and percentage of such institution's revenues received from sources under this title; and

(B) the amount and percentage of such institution's revenues received from other sources.

(e) CODE OF CONDUCT REQUIREMENTS.—An institution of higher education's code of conduct, as required under subsection (a)(25), shall include the following requirements:

(1) BAN ON REVENUE-SHARING ARRANGEMENTS.—

(A) PROHIBITION.—The institution shall not enter into any revenue-sharing arrangement with any lender.

(B) DEFINITION.—For purposes of this paragraph, the term "revenue-sharing arrangement" means an arrangement between an institution and a lender under which—

(i) a lender provides or issues a loan that is made, insured, or guaranteed under this title to students at—

tending the institution or to the families of such students; and

(ii) the institution recommends the lender or the loan products of the lender and in exchange, the lender pays a fee or provides other material benefits, including revenue or profit sharing, to the institution, an officer or employee of the institution, or an agent.

(2) GIFT BAN.—

(A) PROHIBITION.—No officer or employee of the institution who is employed in the financial aid office of the institution or who otherwise has responsibilities with respect to education loans, or agent who has responsibilities with respect to education loans, shall solicit or accept any gift from a lender, guarantor, or servicer of education loans.

(B) DEFINITION OF GIFT.—

(i) IN GENERAL.—In this paragraph, the term “gift” means any gratuity, favor, discount, entertainment, hospitality, loan, or other item having a monetary value of more than a de minimus amount. The term includes a gift of services, transportation, lodging, or meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

(ii) EXCEPTIONS.—The term “gift” shall not include any of the following:

(I) Standard material, activities, or programs on issues related to a loan, default aversion, default prevention, or financial literacy, such as a brochure, a workshop, or training.

(II) Food, refreshments, training, or informational material furnished to an officer or employee of an institution, or to an agent, as an integral part of a training session that is designed to improve the service of a lender, guarantor, or servicer of education loans to the institution, if such training contributes to the professional development of the officer, employee, or agent.

(III) Favorable terms, conditions, and borrower benefits on an education loan provided to a student employed by the institution if such terms, conditions, or benefits are comparable to those provided to all students of the institution.

(IV) Entrance and exit counseling services provided to borrowers to meet the institution’s responsibilities for entrance and exit counseling as required by subsections (b) and (l) of section 485, as long as—

(aa) the institution’s staff are in control of the counseling, (whether in person or via electronic capabilities); and

(bb) such counseling does not promote the products or services of any specific lender.

(V) Philanthropic contributions to an institution from a lender, service, or guarantor of education loans that are unrelated to education loans or any

contribution from any lender, guarantor, or servicer that is not made in exchange for any advantage related to education loans.

(VI) State education grants, scholarships, or financial aid funds administered by or on behalf of a State.

(iii) RULE FOR GIFTS TO FAMILY MEMBERS.—For purposes of this paragraph, a gift to a family member of an officer or employee of an institution, to a family member of an agent, or to any other individual based on that individual's relationship with the officer, employee, or agent, shall be considered a gift to the officer, employee, or agent if—

(I) the gift is given with the knowledge and acquiescence of the officer, employee, or agent; and

(II) the officer, employee, or agent has reason to believe the gift was given because of the official position of the officer, employee, or agent.

(3) CONTRACTING ARRANGEMENTS PROHIBITED.—

(A) PROHIBITION.—An officer or employee who is employed in the financial aid office of the institution or who otherwise has responsibilities with respect to education loans, or an agent who has responsibilities with respect to education loans, shall not accept from any lender or affiliate of any lender any fee, payment, or other financial benefit (including the opportunity to purchase stock) as compensation for any type of consulting arrangement or other contract to provide services to a lender or on behalf of a lender relating to education loans.

(B) EXCEPTIONS.—Nothing in this subsection shall be construed as prohibiting—

(i) an officer or employee of an institution who is not employed in the institution's financial aid office and who does not otherwise have responsibilities with respect to education loans, or an agent who does not have responsibilities with respect to education loans, from performing paid or unpaid service on a board of directors of a lender, guarantor, or servicer of education loans;

(ii) an officer or employee of the institution who is not employed in the institution's financial aid office but who has responsibility with respect to education loans as a result of a position held at the institution, or an agent who has responsibility with respect to education loans, from performing paid or unpaid service on a board of directors of a lender, guarantor, or servicer of education loans, if the institution has a written conflict of interest policy that clearly sets forth that officers, employees, or agents must recuse themselves from participating in any decision of the board regarding education loans at the institution; or

(iii) an officer, employee, or contractor of a lender, guarantor, or servicer of education loans from serving on a board of directors, or serving as a trustee, of an institution, if the institution has a written conflict of

interest policy that the board member or trustee must recuse themselves from any decision regarding education loans at the institution.

(4) INTERACTION WITH BORROWERS.—The institution shall not—

(A) for any first-time borrower, assign, through award packaging or other methods, the borrower's loan to a particular lender; or

(B) refuse to certify, or delay certification of, any loan based on the borrower's selection of a particular lender or guaranty agency.

(5) PROHIBITION ON OFFERS OF FUNDS FOR PRIVATE LOANS.—

(A) PROHIBITION.—The institution shall not request or accept from any lender any offer of funds to be used for private education loans (as defined in section 140 of the Truth in Lending Act), including funds for an opportunity pool loan, to students in exchange for the institution providing concessions or promises regarding providing the lender with—

(i) a specified number of loans made, insured, or guaranteed under this title;

(ii) a specified loan volume of such loans; or

(iii) a preferred lender arrangement for such loans

(B) DEFINITION OF OPPORTUNITY POOL LOAN.—In this paragraph, the term “opportunity pool loan” means a private education loan made by a lender to a student attending the institution or the family member of such a student that involves a payment, directly or indirectly, by such institution of points, premiums, additional interest; or financial support to such lender for the purpose of such lender extending credit to the student or the family.

(6) BAN ON STAFFING ASSISTANCE.—

(A) PROHIBITION.—The institution shall not request or accept from any lender any assistance with call center staffing or financial aid office staffing.

(B) CERTAIN ASSISTANCE PERMITTED.—Nothing in paragraph (1) shall be construed to prohibit the institution from requesting or accepting assistance from a lender related to:

(i) professional development training for financial aid administrators;

(ii) providing educational counseling materials, financial literacy materials, or debt management materials to borrowers, provided that such materials disclose to borrowers the identification of any lender that assisted in preparing or providing such materials; or

(iii) staffing services on a short-term, nonrecurring basis to assist the institution with financial aid-related functions during emergencies, including State-declared or federally declared natural disasters, federally declared national disasters, and other localized disasters and emergencies identified by the Secretary.

(7) ADVISORY BOARD COMPENSATION.—Any employee who is employed in the financial aid office of the institution, or who otherwise has responsibilities with respect to education loans

or other student financial aid of the institution, and who serves on an advisory board, commission, or group established by a lender, guarantor, or group of lenders or guarantors, shall be prohibited from receiving anything of value from the lender, guarantor, or group of lenders or guarantors, except that the employee may be reimbursed for reasonable expenses incurred in serving on such advisory board, commission, or group.

(f) INSTITUTIONAL REQUIREMENTS FOR TEACH-OUTS.—

(1) IN GENERAL.—In the event the Secretary initiates the limitation, suspension, or termination of the participation of an institution of higher education in any program under this title under the authority of subsection (c)(1)(F) or initiates an emergency action under the authority of subsection (c)(1)(G) and its prescribed regulations, the Secretary shall require that institution to prepare a teach-out plan for submission to the institution's accrediting agency or association in compliance with section 496(c)(3), the Secretary's regulations on teach-out plans, and the standards of the institution's accrediting agency or association.

(2) TEACH-OUT PLAN DEFINED.—In this subsection, the term “teach-out plan” means a written plan that provides for the equitable treatment of students if an institution of higher education ceases to operate before all students have completed their program of study, and may include, if required by the institution's accrediting agency or association, an agreement between institutions for such a teach-out plan.

(g) INSPECTOR GENERAL REPORT ON GIFT BAN VIOLATIONS.—The Inspector General of the Department shall—

(1) submit an annual report to the authorizing committees identifying all violations of an institution's code of conduct that the Inspector General has substantiated during the preceding year relating to the gift ban provisions described in subsection (e)(2); and

(2) make the report available to the public through the Department's website.

(h) PREFERRED LENDER LIST REQUIREMENTS.—

(1) IN GENERAL.—In compiling, maintaining, and making available a preferred lender list as required under subsection (a)(27), the institution will—

(A) clearly and fully disclose on such preferred lender list—

(i) not less than the information required to be disclosed under section 153(a)(2)(A);

(ii) why the institution has entered into a preferred lender arrangement with each lender on the preferred lender list, particularly with respect to terms and conditions or provisions favorable to the borrower; and

(iii) that the students attending the institution, or the families of such students, do not have to borrow from a lender on the preferred lender list;

(B) ensure, through the use of the list of lender affiliates provided by the Secretary under paragraph (2), that—

(i) there are not less than three lenders of loans made under part B that are not affiliates of each other included on the preferred lender list and, if the insti-

tution recommends, promotes, or endorses private education loans, there are not less than two lenders of private education loans that are not affiliates of each other included on the preferred lender list; and

(ii) the preferred lender list under this paragraph—

(I) specifically indicates, for each listed lender, whether the lender is or is not an affiliate of each other lender on the preferred lender list; and

(II) if a lender is an affiliate of another lender on the preferred lender list, describes the details of such affiliation;

(C) prominently disclose the method and criteria used by the institution in selecting lenders with which to enter into preferred lender arrangements to ensure that such lenders are selected on the basis of the best interests of the borrowers, including—

(i) payment of origination or other fees on behalf of the borrower;

(ii) highly competitive interest rates, or other terms and conditions or provisions of loans under this title or private education loans;

(iii) high-quality servicing for such loans; or

(iv) additional benefits beyond the standard terms and conditions or provisions for such loans;

(D) exercise a duty of care and a duty of loyalty to compile the preferred lender list under this paragraph without prejudice and for the sole benefit of the students attending the institution, or the families of such students;

(E) not deny or otherwise impede the borrower's choice of a lender or cause unnecessary delay in loan certification under this title for those borrowers who choose a lender that is not included on the preferred lender list; and

(F) comply with such other requirements as the Secretary may prescribe by regulation.

(2) LENDER AFFILIATES LIST.—

(A) IN GENERAL.—The Secretary shall maintain and regularly update a list of lender affiliates of all eligible lenders, and shall provide such list to institutions for use in carrying out paragraph (1)(B).

(B) USE OF MOST RECENT LIST.—An institution shall use the most recent list of lender affiliates provided by the Secretary under subparagraph (A) in carrying out paragraph (1)(B).

(i) DEFINITIONS.—For the purpose of this section:

(1) AGENT.—The term “agent” has the meaning given the term in section 151.

(2) AFFILIATE.—The term “affiliate” means a person that controls, is controlled by, or is under common control with another person. A person controls, is controlled by, or is under common control with another person if—

(A) the person directly or indirectly, or acting through one or more others, owns, controls, or has the power to vote five percent or more of any class of voting securities of such other person;

(B) the person controls, in any manner, the election of a majority of the directors or trustees of such other person; or

(C) the Secretary determines (after notice and opportunity for a hearing) that the person directly or indirectly exercises a controlling interest over the management or policies of such other person's education loans.

(3) EDUCATION LOAN.—The term “education loan” has the meaning given the term in section 151.

(4) ELIGIBLE INSTITUTION.—The term “eligible institution” means any such institution described in section 102 of this Act.

(5) OFFICER.—The term “officer” has the meaning given the term in section 151.

(6) PREFERRED LENDER ARRANGEMENT.—The term “preferred lender arrangement” has the meaning given the term in section 151.

(j) CONSTRUCTION.—Nothing in the amendments made by the Higher Education Amendments of 1992 shall be construed to prohibit an institution from recording, at the cost of the institution, a hearing referred to in subsection (b)(2), subsection (c)(1)(D), or subparagraph (A) or (B)(i) of subsection (c)(2), of this section to create a record of the hearing, except the unavailability of a recording shall not serve to delay the completion of the proceeding. The Secretary shall allow the institution to use any reasonable means, including stenographers, of recording the hearing.

* * * * *

TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

* * * * *

PART D—GENERAL PROVISIONS

* * * * *

SEC. 639. INSTITUTIONAL CERTIFICATIONS.

(a) ANNUAL REQUIREMENT FOR INSTITUTIONAL ELIGIBILITY.—*Not later than July 31 of each calendar year beginning on or after the date of enactment of the Protect Economic and Academic Freedom Act of 2026, an institution of higher education participating or applying to participate in any program under this title shall submit to the Secretary the certification required under subsection (b). An institution that does not submit such certification by July 31 of a calendar year shall be ineligible to receive any funds under this title in the first fiscal year that begins after such July 31, including any funds under this title that would otherwise have been available to the institution in such fiscal year for a grant awarded during a previous fiscal year.*

(b) CERTIFICATION.—*An institution shall certify to the Secretary that, for the period beginning on the date of such certification and ending on July 31 of the following year, the institution will—*

(1) permit students and faculty of the certifying institution to participate in academic programs, including conferences, teach-

ing exchanges, cultural exchanges, study abroad programs, joint research, and other collaborative educational activities, in a major strategic partner (as defined in section 487(a)(30)) of the United States in the same manner, and under the same terms and conditions, as students and faculty of the institution are permitted to participate in academic programs in other foreign countries; and

(2) permit students and faculty of postsecondary educational institutions in such a major strategic partner to participate in academic programs offered by the certifying institution, including conferences, teaching exchanges, cultural exchanges, study abroad programs, joint research, and other collaborative educational activities, in the same manner, and under the same terms and conditions, as students and faculty of other foreign postsecondary educational institutions that are not in such a major strategic partner.

SEC. 639A SENSE OF CONGRESS.

It is the sense of Congress that limitations on cooperative efforts by institutions of higher education, consortia of such institutions, or partnerships between nonprofit educational organizations and institutions of higher education with a major strategic partner (as defined in section 487(a)(30)) of the United States do not serve the security, stability, and economic vitality of the United States.

* * * * *

MINORITY VIEWS

INTRODUCTION

H.R. 4795, the *Protect Economic and Academic Freedom Act of 2025*, sponsored by Rep. Virginia Foxx (R–NC) amends the *Higher Education Act of 1965* (HEA) to make institutions of higher education (IHEs) ineligible for participation in any programs authorized under HEA title IV (Title IV) if they engage in a “nonexpressive commercial boycott” of Israel.¹ The bill also makes IHEs ineligible for participation in any programs under HEA title VI if they do not permit their students and faculty to participate in foreign exchange programs with Israel, or permit Israeli students and academics to participate in their academic programs and exchanges.²

Although the legislative text does not mention it by name, Rep. Foxx said at the bill’s introduction that it was aimed at the official Boycott-Divest-Sanctions (BDS) movement.³ No IHE in the United States has expressed administrative support for the BDS movement, making the first half of this bill a solution in search of a problem. Further the solution it proposes may violate long established principles regarding Congressional power under the Spending Clause and First Amendment activity.

Even though the BDS movement in America has little to no institutional momentum behind it, there are increasing instances of faculty members, student and faculty groups, and scholarly associations taking stances to limit engagement with students, faculty, and academics in Israel in response to the war in Gaza.⁴ H.R. 4795 makes the receipt of HEA title VI funds—funds designed to support international higher education—contingent on schools having open dialogue with students and faculty across the world. Requiring IHEs to certify they will not impede the ability of students and faculty to engage in academic programs, cultural exchanges, etc. with Israeli students and faculty is a policy rationally related to the underlying use of these funds. This could have been the building block for a bipartisan unanimous bill, but the Majority decided to include in the bill a section on the BDS movement.

¹ H.R. 4795 § 2, 119th Cong. (2025).

² H.R. 4795 § 3, 119th Cong. (2025).

³ Press Release, Rep. Virginia Foxx, Foxx, Gottheimer Introduce Bill to Hold Higher Education Accountable for BDS Activity (July 30, 2025), <https://foxx.house.gov/news/documentsingle.aspx?DocumentID=400167> (“[The legislation] prohibits colleges and universities from receiving federal student aid if they engage in commercial and academic boycotts dictated by those in the boycott-sanction-divest (BDS) movement.”).

⁴ See e.g., Elisabeth Bumiller, *Israeli Academics Find Themselves Isolated Despite Gaza Cease-Fire*, NY Times (Nov. 9, 2025), <https://www.nytimes.com/2025/11/09/world/middleeast/boycotts-israel.html>.

THE BDS MOVEMENT IS EXPRESSIVE ACTIVITY IMPLICATED BY THE
FIRST AMENDMENT

BDS is a trans-national political movement and committee founded in 2005 to exert pressure on Israel to change its policies in regard to Palestinians.⁵ Specifically, BDS has called for “[e]nding [Israel’s] occupation and colonization of all Arab lands and dismantling the Wall; recognizing the fundamental rights of the Arab-Palestinian citizens of Israel to full equality; and respecting, protecting and promoting the rights of Palestinian refugees to return to their homes and properties as stipulated in UN Resolution 194.”⁶

As opposed to a traditional boycott of a company, BDS’ boycott discipline includes, “withdrawing support from Israel’s apartheid regime, complicit Israeli sporting, cultural, and academic institutions, and all Israeli and international companies engaged in violations of Palestinian human rights.”⁷ Many mainstream Jewish groups do not support the aims of BDS and equate such efforts with calling for the destruction of Israel. Some Jewish groups have denounced the aims of BDS but also recognized that BDS supporters have the constitutional right to espouse their views and anti-BDS laws are counter to the First Amendment.⁸ It is worth noting that the BDS movement, which has support among a few IHEs in other countries, has never gained traction at American universities. While there have been faculty senates and student assemblies that have passed resolutions in support of BDS, those resolutions are non-binding on the institutions of higher education. These votes are often immediately followed by statements from administrators that the institution has no plan to boycott, divest, or sanction anything related to Israel.

Despite the lack of IHE administration support for BDS, approximately 38 states legislatures—mostly conservative—have passed laws opposing BDS efforts. This is the appropriate context in which to consider H.R. 4795. Under this bill, IHEs would have to certify as part of the program participation agreement (PPA) they are required to enter into to receive Title IV aid, that they “will not engage in a nonexpressive commercial boycott of a major strategic partner of the United States.”⁹ This language mirrors that of many state laws.¹⁰

⁵ Palestinian BDS National Committee, *What is BDS?*, (last visited Aug. 1, 2026), <https://bdsmovement.net/what-bds>.

⁶*Id.*

⁷*Id.*

⁸ J Street, *J Street policy principles on the Global BDS Movement and boycotts, divestment and sanctions efforts*, (last visited Aug. 1, 2026), <https://jstreet.org/boycott-divestment-and-sanctions-bds/> (“J Street is opposed to federal and state-level legislation that would criminalize individuals’ and non-governmental organizations’ BDS activities, penalize BDS supporters or impose BDS-related litmus tests on individuals. This type of misguided legislative overreach is the wrong way to fight BDS. By alienating and angering the liberal audiences that BDS seeks to engage and recruit, it actually empowers the BDS Movement. This legislation can too easily violate constitutional free speech protections, and is fundamentally inconsistent with our democratic principles as Americans and as Jews. We urge lawmakers and Jewish communal leaders to engage Americans who are sympathetic to BDS in serious and open conversation and debate, rather than seeking to silence them by aggressively penalizing their actions and positions.”).

⁹ H.R. 4795 § 2, 119th Cong. (2025).

¹⁰ *E.g.*, *Martin v. Wrigley*, 540 F. Supp. 3d 1220, 1229 (N.D. Ga. 2021) (“Like the decisions reviewing anti-boycotting statutes in *Jordahl*, *Amawi*, *Koontz*, and *Waldrip*, this Court concludes that O.C.G.A. § 50–5–85 imposes a condition on those who contract with the state of Georgia that implicates the contractors’ First Amendment rights.); *but see* *Arkansas Times LP v. Waldrip as Tr. of Univ. of Arkansas Bd. of Trs.*, 37 F.4th 1386, 1394 (8th Cir. 2022) (“Under

The problem with H.R. 4795, and by extension many of the state laws aimed at BDS, is that they are attempting to use power derived from the Spending Clause of the Constitution to police First Amendment-protected speech. H.R. 4795 claims its target is “non-expressive” activity, and as such it does not impact First Amendment speech. But the sponsors continuously reiterate their policy target is the BDS movement, a movement which is clear and open about the ideas it hopes to express via a boycott of Israel. It is clear that the boycott envisioned by BDS, is an expressive activity, one designed to express a political opinion and compel political activity. H.R. 4795 just calling it “nonexpressive” is a fig leaf courts will likely ignore, recognizing the bill implicates free speech. Congress cannot make a law abridging the freedom of speech, either directly, or in this case indirectly.

Further, H.R. 4795 would likely fail the “unconstitutional conditions” doctrine, an established principle in case law that “once the government has established a benefit, it may not deny that benefit to a person ‘on a basis that infringes his constitutionally protected interests.’”¹¹ It is clear that under H.R. 4795, Congress would be attempting to force IHEs to adopt a particular view on an issue of public concern. And as Title IV’s purpose as federal student aid has little to no nexus with the issue at hand, it is likely Courts will apply “heightened scrutiny to conditions that ‘seek to leverage funding’ in a way that burdens constitutional rights ‘outside the contours of the program itself.’”¹²

TITLE VI FUNDING SHOULD NOT FLOW TO SCHOOLS THAT HAMPER INTERNATIONAL COOPERATION

The second provision of H.R. 4795 would require schools that apply for funding under HEA title VI to certify that they permit their students and faculty to engage with students and faculty of Israeli institutions of higher education.¹³ The Congressional Research Service (CRS) broadly describes the purpose of the programs authorized under title VI as “to develop Americans’ ability to understand and interact with people from other societies, to improve diplomacy and global cooperation, and to help U.S. companies compete in international business.”¹⁴ These goals, unlike those of HEA Title IV, are directly related to the underlying requirement H.R. 4795 seeks to impose. It is wholly reasonable that IHEs that are applying for funding to further student’s understanding of international cooperation would be expected not to sanction the boycotting of any nation. Such a condition on Title VI funds is constitutional, and many Committee Democrats support this provision,

Arkansas’s canons of statutory interpretation, we think the Arkansas Supreme Court would read Act 710 as prohibiting purely commercial, non-expressive conduct. It does not ban Arkansas Times from publicly criticizing Israel, or even protesting the statute itself. It only prohibits economic decisions that discriminate against Israel. Because those commercial decisions are invisible to observers unless explained, they are not inherently expressive and do not implicate the First Amendment.”).

¹¹ Victoria L. Killion, Cong. Rsch. Serv., R46827, Funding Conditions: Constitutional Limits on Congress’s Spending Power (2021), <https://www.congress.gov/crs-product/R46827>.

¹² *Id.*

¹³ H.R. 4795 § 3, 119th Cong. (2025).

¹⁴ https://www.congress.gov/crs_external_products/R/PDF/R46508/R46508.1.pdf.

but could not support a bill that also included the broader Title IV conditioning discussed previously.

DEMOCRATIC AMENDMENTS OFFERED DURING MARKUP OF H.R. 4795

Committee Democrats did not offer any amendments during consideration of H.R. 4795.

CONCLUSION

As mentioned earlier, to the extent that H.R. 4795 is aimed at the BDS movement in the United States, it is a solution in search of a problem. The BDS movement predates the Oct. 7, 2023 attack on Israel, and while it may have limited student and faculty support it has never been endorsed by the administration of any domestic university. Regardless, the Majority can bring up bills like H.R. 4795 recognizing that movements that have to rely on the First Amendment to protect their right to speak are never popular. Further, they can take a policy that many members may agree with, requiring that schools that receive HEA funding for international education be open to international dialogue, and hold it hostage in an attempt to get members to support other policy they oppose. While they are well within their rights, this is not productive lawmaking, and does nothing to stem animus and division on college campuses or help students feel safe.

