

105TH CONGRESS
2D SESSION

S. 2487

To amend The Equal Access Act to provide equal access for elementary and secondary school groups to expense reimbursement and materials, and to provide equal access for community groups to meeting space.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 16, 1998

Mr. ASHCROFT introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To amend The Equal Access Act to provide equal access for elementary and secondary school groups to expense reimbursement and materials, and to provide equal access for community groups to meeting space.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Equal Access Improve-
5 ment Act”.

6 **SEC. 2. EQUAL ACCESS TO EXPENSE REIMBURSEMENT.**

7 (a) IN GENERAL.—Section 802 of The Equal Access
8 Act (20 U.S.C. 4071) is amended—

1 (1) by redesignating subsections (d) through (f)
2 as subsections (g) through (i), respectively; and

3 (2) by inserting after subsection (c), the follow-
4 ing:

5 “(d)(1) Subject to subsection (i), it shall be unlawful
6 for any public intermediate school or secondary school
7 that—

8 “(A) receives Federal financial assistance;

9 “(B) maintains a limited open forum as de-
10 scribed in subsection (b); and

11 “(C) provides for the reimbursement of the ex-
12 penses of one or more noncurriculum-related student
13 groups or students pursuing noncurriculum-related
14 activities;

15 to deny equal treatment, to any student group or student,
16 respectively, seeking reimbursement for similar expenses,
17 on the basis of the religious, political, philosophical, or
18 other content of the speech or activity engaged in by such
19 student group or student, respectively.

20 “(2) Nothing in this subsection shall be construed to
21 prevent a public intermediate school or secondary school
22 from granting or denying a reimbursement request pursu-
23 ant to a neutral policy administered without regard to the
24 religious, political, philosophical, or other content of the

1 speech or activity engaged in by the student group or stu-
 2 dent seeking the reimbursement.”.

3 (b) CONSTRUCTION.—Subsection (g) of section 802
 4 of The Equal Access Act (20 U.S.C. 4071), as amended
 5 in subsection (a), is further amended—

6 (1) in paragraph (3), by inserting after “be-
 7 yond” the following: “the reimbursement of expenses
 8 on a nondiscriminatory basis as provided for in sub-
 9 section (d), and payment of”;

10 (2) in paragraph (4), by inserting “or activity”
 11 after “meeting” each place it appears; and

12 (3) in paragraph (5), by inserting “or activi-
 13 ties” after “meetings”.

14 **SEC. 3. EQUAL ACCESS FOR DISTRIBUTION OF MATERIALS.**

15 Section 802 of The Equal Access Act (20 U.S.C.
 16 4071) is amended by inserting after subsection (d), as
 17 added by section 2, the following:

18 “(e)(1) Subject to subsection (i), it shall be unlawful
 19 for any public intermediate school or secondary school
 20 that—

21 “(A) receives Federal financial assistance;

22 “(B) maintains a limited open forum as de-
 23 scribed in subsection (b); and

24 “(C) permits one or more noncurriculum-related
 25 student groups or students pursuing noncurriculum-

1 related activities to distribute newsletters or other
 2 written materials;
 3 to deny equal treatment, to any student group or student,
 4 respectively, seeking a similar opportunity to distribute
 5 newsletters or other written materials, on the basis of the
 6 religious, political, philosophical, or other content of the
 7 speech or activity engaged in by such student group or
 8 student, respectively.

9 “(2) Nothing in this subsection shall be construed to
 10 prevent a public intermediate school or secondary school
 11 from granting or denying a request to distribute news-
 12 letters or other written materials pursuant to a neutral
 13 policy that—

14 “(A) is administered without regard to the reli-
 15 gious, political, philosophical, or other content of the
 16 speech or activity engaged in by the student group
 17 or student making the request; and

18 “(B) imposes reasonable time, place, and man-
 19 ner restrictions on the distribution of newsletters or
 20 other written materials consistent with the first and
 21 14th amendments to the Constitution.”.

22 **SEC. 4. EQUAL ACCESS FOR COMMUNITY GROUPS.**

23 (a) IN GENERAL.—Section 802 of The Equal Access
 24 Act (20 U.S.C. 4071) is amended by inserting after sub-
 25 section (e), as added by section 3, the following:

1 “(f)(1) Subject to subsection (i), it shall be unlawful
 2 for any public elementary school, intermediate school, or
 3 secondary school that—

4 “(A) receives Federal financial assistance; and

5 “(B) has a limited community forum with re-
 6 spect to noncurriculum-related community groups or
 7 individuals from the community pursuing non-
 8 curriculum-related activities as described in para-
 9 graph (2);

10 to deny equal access to, or discriminate against, any com-
 11 munity group or any individual from the community, re-
 12 spectively, who desires to conduct a meeting, or otherwise
 13 use school facilities, within that limited community forum,
 14 on the basis of the religious, political, philosophical, or
 15 other content of the speech or activity engaged in by such
 16 community group or individual, respectively.

17 “(2) In this subsection, a public elementary school,
 18 intermediate school, or secondary school has a limited
 19 community forum if such school grants an offering to or
 20 opportunity for one or more noncurriculum-related com-
 21 munity groups or individuals from the community pursu-
 22 ing noncurriculum-related activities to meet on school
 23 premises or otherwise use school facilities during non-
 24 instructional time.

1 “(3) Nothing in this subsection shall be construed to
 2 prevent a public elementary school, intermediate school,
 3 or secondary school from granting or denying a request
 4 by a community group or individual from a community
 5 to meet on school premises or otherwise use school facili-
 6 ties pursuant to a neutral policy administered without re-
 7 gard to the religious, political, philosophical, or other con-
 8 tent of the speech or activities engaged in by the commu-
 9 nity group or individual.

10 “(4) In this subsection, the term ‘elementary school’
 11 means a school that provides elementary education, as de-
 12 fined by State law.”.

13 (b) CONSTRUCTION.—Subsection (g) of section 802
 14 of The Equal Access Act (20 U.S.C. 4071), as amended
 15 in section 2, is further amended—

16 (1) in paragraph (3), by inserting “or meetings
 17 initiated by a community group or individual from a
 18 community” after “student-initiated meetings”; and

19 (2) in paragraph (6), by inserting “or commu-
 20 nity groups” after “groups of students”.

21 **SEC. 5. EXTENSION OF EQUAL ACCESS GUARANTEES TO**
 22 **PUBLIC INTERMEDIATE SCHOOLS.**

23 (a) IN GENERAL.—Section 802 of The Equal Access
 24 Act (20 U.S.C. 4071) is amended by striking subsections
 25 (a) through (c) and inserting the following:

1 “(a) Subject to subsection (i), it shall be unlawful for
2 any public intermediate school or secondary school that
3 receives Federal financial assistance and that has a lim-
4 ited open forum with respect to noncurriculum-related stu-
5 dent groups or students pursuing noncurriculum-related
6 activities to deny equal access or a fair opportunity to,
7 or discriminate against, any student group or student, re-
8 spectively, who wishes to conduct a meeting, or otherwise
9 use school facilities, within that limited open forum, on
10 the basis of the religious, political, philosophical, or other
11 content of the speech or activity at such meetings.

12 “(b) In this subsection, a public intermediate school
13 or secondary school has a limited open forum if such
14 school grants an offering to or opportunity for one or more
15 noncurriculum-related student groups or students pursu-
16 ing noncurriculum-related activities to meet on school
17 premises or otherwise use school facilities during non-
18 instructional time.

19 “(c) Schools shall be deemed to offer a fair oppor-
20 tunity to student groups and students who wish to conduct
21 a meeting, or otherwise use school facilities, within its lim-
22 ited open forum if such school uniformly provides that—

23 “(1) the meeting or use of facilities is voluntary
24 and student-initiated;

1 “(2) there is no sponsorship of the meeting or
2 use of facilities by the school, the government, or its
3 agents or employees;

4 “(3) employees or agents of the school or gov-
5 ernment are present at religious meetings or activi-
6 ties involving the use of facilities only in a
7 nonparticipatory capacity;

8 “(4) the meeting or use of facilities does not
9 materially and substantially interfere with the or-
10 derly conduct of educational activities within the
11 school; and

12 “(5) nonschool persons may not direct, conduct,
13 control, or regularly attend activities of student
14 groups or students.”.

15 (b) DEFINITIONS.—Section 803 of the The Equal Ac-
16 cess Act (20 U.S.C. 4072) is amended by adding at the
17 end the following:

18 “(5) The term ‘intermediate school’ means a
19 public school that provides education to students in
20 grade 6 or higher and that does not provide edu-
21 cation to students in grade 5 or lower.”.

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