

109TH CONGRESS
1ST SESSION

H. R. 2508

To amend the Higher Education Act of 1965 to improve the ability of foster care youths to attend and succeed in higher education.

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 2005

Mr. GEORGE MILLER of California (for himself, Mr. DAVIS of Illinois, Mr. GRIJALVA, Mr. HOLT, Mr. VAN HOLLEN, Mr. PAYNE, Mrs. MCCARTHY, Mr. RYAN of Ohio, Mr. OWENS, Mr. HINOJOSA, Mr. KILDEE, Mr. STARK, Mr. KENNEDY of Rhode Island, Mr. CONYERS, Mr. WEXLER, and Ms. WOOLSEY) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the Higher Education Act of 1965 to improve the ability of foster care youths to attend and succeed in higher education.

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 “Foster Opportunities
5 for Success Through Higher Education Reform” or the
6 “FOSTER Act”.

7 **SEC. 2. FINDINGS.**

8 The Congress finds the following:

1 (1) Recent studies by the Center for the Study
2 of Social Policy, Casey Family Programs, and the
3 Packard Foundation demonstrate that many of the
4 20,000 children aging out of foster care each year
5 face unique challenges as they enter the adult world:
6 a greater likelihood of becoming teen parents, de-
7 pendence on public assistance, participation in sub-
8 stance abuse, homelessness, and involvement with
9 the criminal justice system compared to youth in the
10 general population.

11 (2) According to a study of foster care children
12 in Washington State, a child who enters foster care
13 is likely to have poorer academic outcomes than chil-
14 dren not in foster care, even after controlling for a
15 variety of factors such as poverty.

16 (3) A follow-up study in Wisconsin found that
17 37 percent of youth had not completed their high
18 school education when interviewed 12 to 18 months
19 after discharge from foster care.

20 (4) A study of African American males in the
21 Ohio foster care system found that in the sixth
22 grade, African American males in foster care had
23 significantly lower scores than 1 or more of the 4
24 comparison groups (all students, all African Amer-

1 ican students, all male students, all African Amer-
2 ican male students).

3 (5) By the ninth grade, the African American
4 males in foster care had significantly lower scores
5 than all of the comparison groups.

6 (6) These youth in foster care are less likely to
7 be enrolled in college preparatory classes and are
8 more than twice as likely as non-foster care youth
9 (37 percent vs. 16 percent) to have dropped out of
10 high school.

11 (7) A 2002 report issued by the Child Welfare
12 League of America (CWLA) found that more than
13 26 percent of foster children have repeated a grade
14 at least once since the seventh grade; 60 percent
15 have failed a class in the previous year; over a third
16 were below grade level in written language, math
17 and readings; foster youth have higher absentee and
18 tardy rates than their non-foster peers.

19 (8) A report from Casey Family Programs indi-
20 cated that, nationwide, fewer than 27 percent of fos-
21 ter youth who graduated high school went on to col-
22 lege as compared to 52 percent of the general popu-
23 lation.

24 (9) A May 2002, report issued by the Univer-
25 sity of California at Berkeley found that of more

1 than 3200 foster care youth who attended a commu-
2 nity college from 1992 through 2000, 39 percent
3 earned between 1 and 17 credits. Forty percent of
4 the foster care youth earned no credits. Many did
5 not attempt to take classes for credit, but rather
6 were enrolled in remedial or other non-credit classes.

7 **SEC. 3. FOSTER CARE YOUTH OUTREACH AND HOUSING**
8 **SERVICES.**

9 Subpart 2 of part A of title IV of the Higher Edu-
10 cation Act of 1965 is amended by adding at the end the
11 following new chapter:

12 **“CHAPTER 4—FOSTER CARE YOUTH**
13 **OUTREACH AND HOUSING SERVICES**

14 **“SEC. 408A. TECHNICAL ASSISTANCE AND SUPPORT SERV-**
15 **ICES.**

16 “(a) PROGRAM AUTHORIZED.—From the amounts
17 appropriated under section 408E(a), the Secretary shall
18 provide competitive grants to public and private institu-
19 tions of higher education to provide technical assistance
20 and supportive services to foster care youth who are pro-
21 spective students to prepare for, enter, and remain in such
22 institutions.

23 “(b) AUTHORIZED SERVICES.—Funds provided
24 under this section may be used to provide—

25 “(1) academic counseling;

1 “(2) college financial-aid counseling; and

2 “(3) other appropriate support services in-
3 tended to improve the delivery of services to foster
4 care youth.

5 “(c) APPLICATIONS.—An institution seeking a grant
6 under this section shall submit an application to the Sec-
7 retary. Such application shall—

8 “(1) contain assurances that the applicant
9 will—

10 “(A) evaluate—

11 “(i) the extent to which the institu-
12 tion’s current programs are meeting the
13 needs of foster care youth; and

14 “(ii) how the institution’s outreach
15 and retention services can be improved;

16 “(B) report to the Secretary on current
17 and expanded services and efforts to increase
18 the number of foster care youth who attend the
19 institution and remain in school to earn a de-
20 gree or certificate;

21 “(C) expand representation on student
22 body governing boards to include at least one
23 former foster care youth that will serve to ad-
24 vise the institution on student life issues, with
25 particular attention to the unique barriers for

1 foster care youth in accessing and completing
2 postsecondary education; and

3 “(D) coordinate with the State social serv-
4 ices and child welfare departments in order to
5 facilitate the outreach and technical assistance
6 efforts for prospective students who are foster
7 care youth; and

8 “(2) contain such additional information and
9 assurances as the Secretary may require.

10 “(d) SELECTION OF APPLICANTS.—The Secretary
11 shall select institutions of higher education for the award
12 of grants under this section on the basis of identifying
13 those institutions that are most likely to be able to suc-
14 cessfully carry out the program under this section and
15 serve the goal of expanding higher educational opportuni-
16 ties for foster care youth.

17 **“SEC. 408B. HOUSING FOR FOSTER CARE YOUTH.**

18 “(a) GRANTS AUTHORIZED.—From the amounts ap-
19 propriated under section 408E(b), the Secretary shall pro-
20 vide grants to institutions of higher education to ensure
21 basic housing during the regular academic school year, in-
22 cluding interim housing during regular periods of dor-
23 mitory closing (excluding summer break), for those foster
24 care youth living in college dormitories.

1 “(b) APPLICATIONS.—An institution seeking a grant
2 under this section shall submit an application to the Sec-
3 retary containing such information as the Secretary may
4 require.

5 “(c) SELECTION OF APPLICANTS.—The Secretary
6 shall select institutions of higher education for the award
7 of grants under this section on the basis of identifying
8 those institutions that are most likely to be able to suc-
9 cessfully carry out the program under this section and
10 serve the goal of expanding higher educational opportuni-
11 ties for foster care youth.

12 **“SEC. 408C. COORDINATION.**

13 “(a) COORDINATION WITH THE JOHN H. CHAFEE
14 FOSTER CARE INDEPENDENCE PROGRAM.—The Sec-
15 retary shall ensure that activities under this chapter are
16 coordinated with programs under section 477(i) of the So-
17 cial Security Act (42 U.S.C. 6383).

18 “(b) COORDINATION WITH TRIO AND GEARUP.—
19 Each recipient of funds under the programs authorized
20 by chapters 1 and 2 of this subpart shall identify services
21 to foster care youth as a permissible service in those pro-
22 grams, and ensure that such youth receive supportive serv-
23 ices, including mentoring, tutoring, and other services pro-
24 vided by those programs.

1 **“SEC. 408D. ELIGIBLE FOSTER CARE YOUTH.**

2 “(a) IN GENERAL.—An individual shall be treated as
3 a foster care youth eligible for services and benefits under
4 this chapter if such individual is—

5 “(1) a youth for whom the State or an entity
6 licensed by the State has responsibility for place-
7 ment, care, or supervision, and includes youth in fos-
8 ter homes, group homes, or kinship care; or

9 “(2) a high school senior or student currently
10 enrolled in a postsecondary education program who
11 is older than 18 years old and is no longer living
12 with his or her foster family, as long as he or she
13 was under State care until age 18.

14 “(b) KINSHIP CARE.—For a youth to be eligible as
15 receiving kinship care, the State or an entity licensed by
16 the State must have intervened on the youth’s behalf and
17 a court of competent jurisdiction must have issued a court
18 order of dependency and the court order or the State or
19 the entity licensed by the State must have placed the
20 youth in legal kinship care. A youth who is residing with
21 his or her relatives in any other type of situation is not
22 eligible as receiving kinship care.

23 **“SEC. 408E. AUTHORIZATION.**

24 “(a) TECHNICAL ASSISTANCE AND OUTREACH SERV-
25 ICES.—There are authorized to be appropriated for grants
26 under section 408A, such sums as may be necessary for

1 fiscal year 2006 and for each of the 5 succeeding fiscal
2 years.

3 “(b) HOUSING FOR FOSTER CARE YOUTH.—There
4 are authorized to be appropriated for grants under section
5 408B, such sums as may be necessary for fiscal year 2006
6 and for each of the 5 succeeding fiscal years.”.

7 **SEC. 4. FAIR TREATMENT FOR FOSTER CARE YOUTH IN FI-**
8 **NANCIAL NEED ANALYSIS.**

9 (a) SIMPLIFYING FOR STUDENTS WITH SPECIAL
10 CIRCUMSTANCES.—Section 480 of the Higher Education
11 Act of 1965 (20 U.S.C. 1087vv) is amended by striking
12 subsection (d) and inserting the following:

13 “(d) INDEPENDENT STUDENT.—

14 “(1) DEFINITION.—The term “independent”,
15 when used with respect to a student, means any in-
16 dividual who—

17 “(A) is 24 years of age or older by Decem-
18 ber 31 of the award year;

19 “(B) is an orphan, in foster care, or a
20 ward of the court, or was in foster care or a
21 ward of the court until the individual reached
22 the age of 18;

23 “(C) is an emancipated youth as defined
24 by his or her state of legal residence or is in

1 legal guardianship as defined by section 475(7)
2 of the Social Security Act;

3 “(D) is a veteran of the Armed Forces of
4 the United States (as defined in subsection
5 (c)(1));

6 “(E) is a graduate or professional student;

7 “(F) is a married individual;

8 “(G) has legal dependents other than a
9 spouse; or

10 “(H) is a student for whom a financial aid
11 administrator makes a documented determina-
12 tion of independence by reason of unusual cir-
13 cumstances.

14 “(2) SIMPLIFYING THE DEPENDENCY OVER-
15 RIDE PROCESS.—Nothing in this subsection shall
16 prohibit a financial aid administrator to make a de-
17 termination of independence under paragraph
18 (1)(H) based upon a documented determination of
19 independence under such paragraph previously made
20 by another financial aid administrator in the same
21 application year.”.

22 (b) TAILORING ELECTRONIC APPLICATIONS FOR
23 STUDENTS WITH SPECIAL CIRCUMSTANCES.—Section
24 483(a) of the Higher Education Act (20 U.S.C. 1090(a))

1 is amended by adding at the end the following new para-
2 graph:

3 “(8) APPLICATIONS FOR STUDENTS SEEKING A
4 DOCUMENTED DETERMINATION OF INDEPEND-
5 ENCE.—In the case of dependent students seeking a
6 documented determination of independence by a fi-
7 nancial aid administrator, as defined by section
8 480(d), nothing in this section shall prohibit the
9 Secretary from —

10 “(A) allowing such students to indicate
11 their special circumstance on an electronic form
12 developed pursuant for this section;

13 “(B) collecting and processing on a pre-
14 liminary basis data provided by such students
15 using the electronic forms developed pursuant
16 for this section; and

17 “(C) distributing such data to institutions
18 of higher education, guaranty agencies, and
19 States for the purposes of processing loan appli-
20 cations and determining need and eligibility for
21 institutional and State financial aid awards on
22 a preliminary basis, pending a documented de-
23 termination of independence by a financial aid
24 administrator.”.

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