

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 2009 AMENDMENT**

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

§ 1161I-4. Guidance on mental health disclosures for student safety**(a) Guidance**

The Secretary shall continue to provide guidance that clarifies the role of institutions of higher education with respect to the disclosure of education records, including to a parent or legal guardian of a dependent student, in the event that such student demonstrates that the student poses a significant risk of harm to himself or herself or to others, including a significant risk of suicide, homicide, or assault. Such guidance shall further clarify that an institution of higher education that, in good faith, discloses education records or other information in accordance with the requirements of this chapter and section 1232g of this title (commonly known as the “Family Educational Rights and Privacy Act of 1974”) shall not be liable to any person for that disclosure.

(b) Information to Congress

The Secretary shall provide an update to the authorizing committees on the Secretary’s activities under subsection (a) not later than 180 days after August 14, 2008.

(Pub. L. 89-329, title VIII, § 825, as added Pub. L. 110-315, title VIII, § 801, Aug. 14, 2008, 122 Stat. 3412; amended Pub. L. 111-39, title VIII, § 801(8), July 1, 2009, 123 Stat. 1956.)

Editorial Notes**AMENDMENTS**

2009—Subsec. (a). Pub. L. 111-39 substituted “commonly known as the ‘Family Educational Rights and Privacy Act of 1974’” for “the Family Educational Rights and Privacy Act of 1974”.

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§ 1161I-5. Rule of construction

Nothing in this part shall be construed—

(1) to provide a private right of action to any person to enforce any provision of this section;

(2) to create a cause of action against any institution of higher education or any employee of the institution for any civil liability; or

(3) to affect section 1232g of this title (commonly known as the “Family Educational Rights and Privacy Act of 1974”) or the regulations issued under section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note).

(Pub. L. 89-329, title VIII, § 826, as added Pub. L. 110-315, title VIII, § 801, Aug. 14, 2008, 122 Stat.

3412; amended Pub. L. 111-39, title VIII, § 801(9), July 1, 2009, 123 Stat. 1956.)

Editorial Notes**REFERENCES IN TEXT**

Section 264 of the Health Insurance Portability and Accountability Act of 1996, referred to in par. (3), is section 264 of title II of Pub. L. 104-191, Aug. 21, 1996, 110 Stat. 2033, which is set out as a note under section 1320d-2 of Title 42, The Public Health and Welfare.

AMENDMENTS

2009—Par. (3). Pub. L. 111-39 substituted “commonly known as the ‘Family Educational Rights and Privacy Act of 1974’” for “the Family Educational Rights and Privacy Act of 1974”.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 2009 AMENDMENT**

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§ 1161I-6. Online survey tool for campus safety**(a) In general**

The Secretary of Education, in consultation with the Attorney General, the Director of the Centers for Disease Control and Prevention, the Secretary of Health and Human Services, and experts in domestic violence, dating violence, sexual assault, sexual harassment, and stalking, shall develop, design, and make available through a secure and accessible online portal, a standardized online survey tool regarding post-secondary student experiences with domestic violence, dating violence, sexual assault, sexual harassment, and stalking.

(b) Development of survey tool

In developing the survey tool required under subsection (a), the Secretary of Education shall—

(1) use best practices from peer-reviewed research measuring domestic violence, dating violence, sexual assault, sexual harassment, and stalking;

(2) consult with the higher education community, experts in survey research related to domestic violence, dating violence, sexual assault, sexual harassment, and stalking, and organizations engaged in the prevention of and response to, and advocacy on behalf of victims of, domestic violence, dating violence, sexual assault, sexual harassment, and stalking, including victims from culturally specific populations and victims with disabilities, regarding the development and design of such survey tool and the methodology for administration of such survey tool; and

(3) ensure that the survey tool is readily accessible to and usable by individuals with disabilities.

(c) Elements**(1) In general**

The survey tool developed pursuant to this section shall be fair and unbiased, be scientifically valid and reliable, meet the highest standards of survey research, and notify the

participant that anonymized results of the survey may be published.

(2) Survey questions

Survey questions included in the survey tool developed pursuant to this section shall—

(A) be designed to gather information on student experiences with domestic violence, dating violence, sexual assault, sexual harassment, and stalking, including the experiences of victims of such incidents;

(B) use trauma-informed language to prevent re-traumatization; and

(C) include—

(i) questions that give students the option to report their demographic information;

(ii) questions designed to determine the incidence and prevalence of domestic violence, dating violence, sexual assault, sexual harassment, and stalking;

(iii) questions regarding whether students know about institutional policies and procedures related to domestic violence, dating violence, sexual assault, sexual harassment, and stalking;

(iv) questions designed to determine, if victims reported domestic violence, dating violence, sexual assault, sexual harassment, or stalking—

(I) to whom the incident was reported and what response the victim may have received;

(II) whether the victim was informed of, or referred to, national, State, local, Tribal, or on-campus resources; and

(III) whether the entity to whom the victim reported the incident conducted an investigation and the duration and final resolution of such an investigation;

(v) questions regarding contextual factors, such as whether force, incapacitation, or coercion was involved;

(vi) questions to determine whether an accused individual was a student at the institution;

(vii) questions to determine whether a victim reported an incident to Federal, State, local, Tribal, or campus law enforcement;

(viii) questions to determine why the victim chose to report or not report an incident to the institution or State, local, or campus law enforcement;

(ix) questions to determine the impact of domestic violence, dating violence, sexual assault, sexual harassment, and stalking on the victim's education, including diminished grades, dropped classes, leaves of absence, and negative financial consequences (such as costs associated with loss in paid tuition due to leaves of absence, loss in scholarship awards due to diminished grades, loss of foreign-student visas, and costs associated with counseling, medical services, or housing changes);

(x) questions to determine the impact and effectiveness of prevention and awareness programs and complaints processes;

(xi) questions to determine attitudes toward sexual violence and harassment, in-

cluding the willingness of individuals to intervene as a bystander to sex-based (including against lesbian, gay, bisexual, or transgender (commonly referred to as "LGBT") individuals), race-based, national origin-based, and disability-based discrimination, harassment, assault, domestic violence, dating violence, sexual assault, sexual harassment, and stalking; and

(xii) other questions, as determined by the Secretary of Education.

(3) Additional elements

In addition to the standardized questions developed by the Secretary of Education under paragraph (2), subject to the review and approval of the Secretary of Education, an institution of higher education may request additional information from students that would increase the understanding of the institution of school climate factors unique to the campuses affiliated with the institution.

(4) Responses

The responses to the survey questions described in paragraph (2) shall—

(A) be submitted confidentially;

(B) not be included in crime statistics; and

(C) in the case of such responses being included in a report, not include personally identifiable information.

(d) Administration of survey

(1) Federal administration

The Secretary of Education, in consultation with the Attorney General, the Director of the Centers for Disease Control and Prevention, and the Secretary of Health and Human Services, shall develop a mechanism by which institutions of higher education may, with respect to the survey tool developed pursuant to this section—

(A) administer such survey tool; and

(B) modify such survey tool to include additional elements or requirements, as determined by the institution, subject to the review and approval of the Secretary of Education.

(2) Costs

The Secretary of Education may not require an institution of higher education to pay to modify the survey tool in accordance with paragraph (1)(B).

(3) Accessibility

The Secretary of Education shall ensure that the survey tool is administered in such a way as to be readily accessible to and usable by individuals with disabilities.

(4) Institutional administration

Beginning not later than 1 year after the date on which the Secretary of Education makes available to institutions the mechanism described in paragraph (1), and every 2 years thereafter, each institution of higher education that receives Federal educational assistance shall administer the survey tool developed pursuant to this section.

(e) Completed surveys

The Secretary of Education shall require each institution of higher education that administers

the survey tool developed pursuant to this section to ensure, to the maximum extent practicable, that an adequate, random, and representative sample size of students (as determined by the Secretary) enrolled at the institution complete the survey tool developed pursuant to this section.

(f) Report

(1) In general

Beginning not later than 2 years after March 15, 2022, the Secretary of Education shall—

(A) prepare a biennial report on the information gained from the standardized elements of the survey under this section and publish such report in an accessible format on the website of the Department of Education, including as part of any online consumer tool offered or supported by the Department of Education that provides information to students regarding specific post-secondary educational institutions, such as the College Scorecard or any successor or similar tool; and

(B) submit such report to Congress.

(2) Inclusions and exclusions

The report required to be prepared under paragraph (1)—

(A) shall include campus-level data for each institution and attributed by name of each campus in a manner that permits comparisons across institutions and campuses; and

(B) shall not publish any individual survey responses.

(g) Publication

Each institution of higher education shall publish, in a manner that is readily accessible and usable by individuals, including individuals with disabilities—

(1) the campus-level results of the standardized elements of the survey under this section on the website of the institution and in the biennial report required under subsection (f) for the campuses affiliated with the institution; and

(2) the campus-level results of the additional elements modifying the survey by the institution, if any, on the website of the institution.

(Pub. L. 117–103, div. W, title XV, § 1507, Mar. 15, 2022, 136 Stat. 959.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Violence Against Women Act Reauthorization Act of 2022, and also as part of the Consolidated Appropriations Act, 2022, and not as part of the Higher Education Act of 1965 which comprises this chapter.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section not effective until Oct. 1 of the first fiscal year beginning after Mar. 15, 2022, see section 4(a) of div. W of Pub. L. 117–103, set out as a note under section 6851 of Title 15, Commerce and Trade.

DEFINITIONS

For definitions of terms used in this section, see section 12291 of Title 34, Crime Control and Law Enforce-

ment, as made applicable by section 2(b) of div. W of Pub. L. 117–103, which is set out as a note under section 12291 of Title 34.

PART M—LOW TUITION

§ 1161m. Incentives and rewards for low tuition

(a) Rewards for low tuition

(1) Grants

From funds made available under subsection (e), the Secretary shall award grants to institutions of higher education that, for academic year 2009–2010 or any succeeding academic year—

(A) have an annual tuition and fee increase, expressed as a percentage change, for the most recent academic year for which satisfactory data is available, that is in the lowest 20 percent of such increases for each category described in subsection (b);

(B) are public institutions of higher education that have tuition and fees that are in the lowest quartile of institutions in each category described in subsection (b)(1), (b)(4), or (b)(7); or

(C) are public institutions of higher education that have a tuition and fee increase of less than \$600 for a first-time, full-time undergraduate student.

(2) Use of funds

Funds awarded to an institution of higher education under paragraph (1) shall be distributed by the institution in the form of need-based grant aid to students who are eligible for Federal Pell Grants, except that no student shall receive an amount under this section that would cause the amount of total financial aid received by such student to exceed the cost of attendance of the institution.

(b) Categories of institutions

The categories of institutions described in subsection (a) shall be the following:

(1) four-year public institutions of higher education;

(2) four-year private, nonprofit institutions of higher education;

(3) four-year private, for-profit institutions of higher education;

(4) two-year public institutions of higher education;

(5) two-year private, nonprofit institutions of higher education;

(6) two-year private, for-profit institutions of higher education;

(7) less than two-year public institutions of higher education;

(8) less than two-year private, nonprofit institutions of higher education; and

(9) less than two-year private, for-profit institutions of higher education.

(c) Rewards for guaranteed tuition

(1) Bonus

For each institution of higher education that the Secretary determines complies with the requirements of paragraph (2) or (3) of this subsection, the Secretary shall provide to such institution a bonus amount. Such institution shall award the bonus amount in the form of