

114TH CONGRESS
1ST SESSION

H. R. 3403

To amend the Higher Education Act of 1965 to protect victims of sexual violence, to improve the adjudication of allegations related to sexual violence, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2015

Mr. SALMON (for himself, Mr. SESSIONS, and Ms. GRANGER) 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 protect victims of sexual violence, to improve the adjudication of allegations related to sexual violence, and for other purposes.

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 “Safe Campus Act of
5 2015”.

1 **SEC. 2. INSTITUTION OF HIGHER EDUCATION REQUIRE-**
2 **MENTS FOR PROTECTING VICTIMS OF SEX-**
3 **UAL VIOLENCE AND INVESTIGATING AND AD-**
4 **JUDICATING ALLEGATIONS OF SEXUAL VIO-**
5 **LENCE.**

6 (a) IN GENERAL.—Title I of the Higher Education
7 Act of 1965 (20 U.S.C. 1001 et seq.) is amended by add-
8 ing at the end the following new part:

9 **“PART F—TREATMENT OF ALLEGATIONS OF**
10 **SEXUAL VIOLENCE**

11 **“SEC. 161. APPLICATION; DEFINITION.**

12 “(a) APPLICATION.—The requirements of this part
13 shall apply to any institution of higher education receiving
14 Federal financial assistance under this Act, including fi-
15 nancial assistance provided to students under title IV,
16 other than a foreign institution of higher education.

17 “(b) DEFINITIONS.—In this part, the following defi-
18 nitions shall apply:

19 “(1) COVERED ALLEGATION.—The term ‘cov-
20 ered allegation’ means, with respect to an institution
21 of higher education, an allegation that a student of
22 the institution committed an act of sexual violence,
23 or that members of a student organization of the in-
24 stitution or the organization itself committed or were
25 involved in creating a hostile environment resulting
26 in an act of sexual violence.

1 “(2) INSTITUTIONAL DISCIPLINARY PRO-
2 CEEDING.—The term ‘institutional disciplinary pro-
3 ceeding’ means the process by which an institution
4 of higher education investigates and adjudicates a
5 covered allegation and imposes a sanction with re-
6 spect to the allegation, in accordance with the insti-
7 tution’s own code of conduct or similar internal
8 rules.

9 “(3) SEXUAL VIOLENCE.—The term ‘sexual vio-
10 lence’ means, with respect to an institution of higher
11 education—

12 “(A) aggravated sexual abuse under sec-
13 tion 2241 of title 18, United States Code;

14 “(B) assault resulting in substantial bodily
15 injury under section 113(a)(7) of title 18,
16 United States Code;

17 “(C) battery, as defined under the applica-
18 ble criminal law of the jurisdiction in which the
19 institution is located;

20 “(D) rape, as defined under the applicable
21 criminal law of the jurisdiction in which the in-
22 stitution is located;

23 “(E) sexual abuse under section 2242 of
24 title 18, United States Code; and

1 “(F) sexual assault, as defined under the
2 applicable criminal law of the jurisdiction in
3 which the institution is located.

4 **“SEC. 162. EDUCATION, REPORTING, AND STUDENT CARE**
5 **STRATEGIES FOR PREVENTING SEXUAL VIO-**
6 **LENCE.**

7 “(a) EDUCATION PROGRAMS.—

8 “(1) IN GENERAL.—Each institution of higher
9 education which is subject to this part is encouraged
10 to provide education programs designed to address
11 sexual violence that, at a minimum, provide training
12 for reporting covered allegations, intervening as a
13 bystander, and fostering development of healthy re-
14 lationships.

15 “(2) ACCESS TO PROGRAMS.—The institution is
16 encouraged—

17 “(A) to provide access to the programs re-
18 quired under this subsection for each student
19 during each academic year; and

20 “(B) to ensure new students are made
21 aware of the programs and can access them as
22 soon as possible after beginning the course of
23 study at the institution.

24 “(b) SUPPORT SERVICES.—Each institution of higher
25 education which is subject to this part shall devote appro-

1 p r i a t e resources for the care, support, and guidance for
2 students affected by sexual violence.

3 “(c) **ROLE OF VOLUNTEER ADVISORS TO STUDENT**
4 **ORGANIZATIONS.**—An institution of higher education
5 which is subject to this part—

6 “(1) may not designate an adult volunteer advi-
7 sor to a student organization, or any employee of a
8 student organization who is not also an employee of
9 the institution, as a campus security authority under
10 section 485 or regulations implementing that sec-
11 tion; and

12 “(2) may not deny recognition to a student or-
13 ganization because an advisor or employee described
14 in paragraph (1) does not register or serve as a
15 campus security authority under section 485 or reg-
16 ulations implementing that section.

17 “(d) **TRAINING.**—Each institution of higher edu-
18 cation which is subject to this part shall provide appro-
19 p r i a t e annual training to campus security personnel, cam-
20 p u s disciplinary committee members, and other relevant
21 institutional personnel regarding the requirements of this
22 part, and shall at a minimum require each student who
23 serves as a resident advisor in housing facilities which are
24 owned or supervised by the institution to participate in
25 this training and demonstrate knowledge of the require-

1 ments of this section regarding the reporting of allegations
2 to law enforcement agencies and the effects of the con-
3 fidentiality exception under section 163(a)(2).

4 **“SEC. 163. ROLE OF LAW ENFORCEMENT AGENCIES IN IN-**
5 **VESTIGATION OF ALLEGATIONS OF SEXUAL**
6 **VIOLENCE.**

7 “(a) REFERRAL OF ALLEGATIONS.—

8 “(1) REFERRAL.—Except as provided in para-
9 graph (2), if an institution of higher education which
10 is subject to this part receives a covered allegation,
11 along with written consent to proceed from the al-
12 leged victim, the institution shall report and refer
13 the allegation to the law enforcement agency of the
14 unit of local government with jurisdiction to respond
15 to such allegations in the location of the institution
16 immediately, but not later than 48 hours after re-
17 ceiving written consent from the alleged victim.

18 “(2) CONFIDENTIALITY EXCEPTION.—

19 “(A) IN GENERAL.—Paragraph (1) does
20 not apply if the individual who is the alleged
21 victim of an act of sexual violence included in
22 the covered allegation provides a written notifi-
23 cation to the institution that the individual does
24 not want the allegation to be investigated by a
25 law enforcement agency.

1 “(B) EFFECT OF NOTIFICATION OF CON-
2 FIDENTIALITY.—If an individual provides a no-
3 tification to the institution under this para-
4 graph with respect to an allegation, the institu-
5 tion may not initiate or otherwise carry out any
6 institutional disciplinary proceeding with re-
7 spect to the allegation, including imposing in-
8 terim measures described in subsection (c), but
9 only if the individual includes in the notification
10 a statement that the individual understands the
11 effect under this subparagraph of providing the
12 notification.

13 “(b) RESTRICTIONS ON INSTITUTIONAL DISCIPLI-
14 NARY PROCEEDINGS DURING PERIOD OF LAW ENFORCE-
15 MENT INVESTIGATION.—

16 “(1) IN GENERAL.—During the period in which
17 a law enforcement agency is investigating a covered
18 allegation reported by an institution under sub-
19 section (a), the institution may not initiate or other-
20 wise carry out any institutional disciplinary pro-
21 ceeding with respect to the allegation, except to the
22 extent that the institution may impose interim sanc-
23 tions under subsection (c).

24 “(2) PERIOD OF LAW ENFORCEMENT INVES-
25 TIGATION DESCRIBED.—For purposes of this sub-

1 section and subsection (c), the period in which a law
2 enforcement agency is investigating an allegation re-
3 ported under subsection (a) shall be considered—

4 “(A) the 30-day period beginning on the
5 date on which the institution reported the alle-
6 gation to the agency, together with

7 “(B) any subsequent 30-day period for
8 which the agency notifies the institution that it
9 is continuing to investigate the allegation and
10 that the public interest is best served by pre-
11 venting the institution from beginning its own
12 investigation and disciplinary proceeding.

13 “(3) TOLLING.—For purposes of satisfying any
14 federally prescribed time period for an institution to
15 complete an adjudication of an allegation to which
16 this subsection applies, the time period shall be
17 deemed to begin upon the expiration of the period in
18 which the law enforcement agency is investigating
19 the allegation, in accordance with this subsection.

20 “(4) PERMITTING INVOLVEMENT OF ACCRED-
21 ITED CAMPUS PUBLIC SAFETY DEPARTMENTS.—Not-
22 withstanding paragraph (1), if an institution of
23 higher education operates an accredited public safety
24 department that employs sworn officers, such de-
25 partment may carry out investigative functions with

1 respect to an allegation provided to a law enforce-
2 ment agency under subsection (a) if authorized to do
3 so by the law enforcement agency.

4 “(c) PERMITTING INSTITUTION TO IMPOSE INTERIM
5 SANCTIONS.—

6 “(1) IN GENERAL.—During the period in which
7 a law enforcement agency is investigating a covered
8 allegation reported by an institution under sub-
9 section (a), the institution may impose interim sanc-
10 tions against the subject of the allegation with re-
11 spect to the allegation (including temporary suspen-
12 sions, no contact orders, adjustments of class sched-
13 ules, or changes in housing assignments) and carry
14 out investigations and adjudications with respect to
15 the imposition of such sanctions, but only if the in-
16 stitution determines that the imposition of such a
17 sanction is a reasonable measure to promote campus
18 safety and student well-being.

19 “(2) SPECIAL RULES FOR DURATION OF PERI-
20 ODS OF TEMPORARY SUSPENSIONS.—

21 “(A) STUDENTS.—Subject to paragraph
22 (3), if the subject of an allegation is a student,
23 an institution may impose a temporary suspen-
24 sion for a period of not more than 15 days as
25 an interim sanction under this subsection, and

1 may extend the suspension for additional peri-
2 ods of not more than 30 days per period if, pur-
3 suant to a hearing held in accordance with the
4 requirements of section 164 for each such addi-
5 tional period, the institution finds that exten-
6 sion is necessary because the student poses an
7 immediate threat to campus safety and student
8 well-being.

9 “(B) STUDENT ORGANIZATIONS.—If the
10 subject of an allegation is a student organiza-
11 tion, an institution may impose a temporary
12 suspension for a period of not more than 10
13 days on the operations of the organization as
14 an interim sanction under this subsection, but
15 only if the institution determines that the orga-
16 nization has engaged in activity that presents a
17 significant risk to the health and physical safety
18 of campus community members, and that the
19 imposition of the suspension is not done merely
20 for punitive purposes.

21 “(3) PERIOD IN WHICH INTERIM SANCTION IS
22 IN EFFECT.—An interim sanction imposed under
23 this subsection with respect to an allegation shall
24 terminate upon the expiration of the period in which
25 a law enforcement agency is investigating the allega-

1 tion (as described in subsection (b)), except that if
2 an indictment has been issued with respect to the al-
3 legation and the subject of the allegation is a stu-
4 dent, the institution may continue the sanction, in-
5 cluding a temporary suspension the duration of
6 which would otherwise be limited under paragraph
7 (2)(A), until the completion of the case or the com-
8 pletion of any sentence imposed.

9 “(4) PROHIBITING IMPOSITION OF INTERIM
10 SANCTIONS UPON JOINT REQUEST OF ALLEGED VIC-
11 TIM AND LAW ENFORCEMENT.—In addition to the
12 period described in subsection (b)(2), an institution
13 may not impose an interim sanction under this sub-
14 section with respect to a covered allegation during
15 any period for which the alleged victim and the law
16 enforcement agency which is investigating the allega-
17 tion submit a joint request to the institution to not
18 impose such an interim sanction.

19 “(d) SAFE HARBORS.—

20 “(1) INSTITUTIONS.—No institution of higher
21 education which is subject to this part shall be con-
22 sidered to have violated any provision of title IX of
23 the Education Amendments of 1972 (20 U.S.C.
24 1681 et seq.) or any policy or regulation imple-
25 menting any such provision on the grounds that the

1 institution did not investigate or adjudicate a covered
2 allegation, or did not impose any sanction with
3 respect to a covered allegation, to the extent that the
4 institution was prohibited under this section from
5 initiating or carrying out any institutional disciplinary
6 proceeding with respect to the allegation.

7 “(2) STUDENTS.—An institution of higher edu-
8 cation which is subject to this part may not impose
9 a sanction on a student who is a victim of, or a by-
10 stander witness to, an act of sexual violence on the
11 grounds that the student engaged in conduct prohib-
12 ited under the institution’s code of conduct (other
13 than violent conduct) if the institution learned that
14 the student engaged in such conduct as part of a re-
15 port of a covered allegation which was made in good
16 faith by the student to an agent of the institution.

17 “(e) PRIVACY.—It shall not be a violation of section
18 444 of the General Education Provisions Act (commonly
19 known as the ‘Family Educational Rights and Privacy Act
20 of 1974’) (20 U.S.C. 1232g) for an institution of higher
21 education to report an allegation to a law enforcement
22 agency under subsection (a).

23 “(f) NO EFFECT ON CIVIL REMEDIES.—Nothing in
24 this section may be construed to limit the authority of any

1 person to seek a civil remedy in a court of competent juris-
2 diction with respect to any covered allegation.

3 **“SEC. 164. DUE PROCESS REQUIREMENTS FOR INSTITU-**
4 **TIONAL DISCIPLINARY PROCEEDINGS.**

5 “(a) DUE PROCESS RIGHTS.—Each institution of
6 higher education which is subject to this part may not im-
7 pose any sanction on any person, including a student orga-
8 nization, in response to a covered allegation unless the
9 sanction is imposed under a formal hearing or similar ad-
10 judicatory proceeding, in accordance with institutional dis-
11 ciplinary proceedings that meet each of the following re-
12 quirements:

13 “(1) The institution shall provide all parties to
14 the proceeding with adequate written notice of the
15 allegation not later than 2 weeks prior to the start
16 of any formal hearing or similar adjudicatory pro-
17 ceeding, and shall include in such notice a descrip-
18 tion of all rights and responsibilities under the pro-
19 ceeding, a statement of all relevant details of the al-
20 legation, and a specific statement of the sanctions
21 which may be imposed.

22 “(2) The institution shall provide each person
23 against whom the allegation is made with a mean-
24 ingful opportunity to admit or contest the allegation.

1 “(3) The institution shall ensure that all parties
2 to the proceeding have access to all material evi-
3 dence, including both inculpatory and exculpatory
4 evidence, not later than one week prior to the start
5 of any formal hearing or similar adjudicatory pro-
6 ceeding. Such evidence may include but is not lim-
7 ited to complainant statements, third-party witness
8 statements, electronically stored information, written
9 communications, social media posts, and demonstra-
10 tive evidence.

11 “(4) The institution shall permit each party to
12 the proceeding to be represented, at the sole expense
13 of the party, by an attorney or other advocate for
14 the duration of the proceeding, including during the
15 investigation of the allegation and other preliminary
16 stages prior to a formal hearing or similar adjudica-
17 tory proceeding, and shall permit the attorney or
18 other advocate to ask questions in the proceeding,
19 file relevant papers, examine evidence, and examine
20 witnesses (subject to paragraph (5)).

21 “(5) The institution shall permit each party to
22 the proceeding to safely confront witnesses, includ-
23 ing the complainant, in an appropriate manner, in-
24 cluding by submitting written questions to be asked
25 by the person serving as the adjudicator in any for-

1 mal hearing or similar adjudicatory proceeding, ex-
2 cept that it shall be presumptively improper for any
3 person to make any inquiry about the sexual history
4 of the individual reporting the covered allegation
5 (other than an inquiry made by the individual
6 against whom the allegation is made, or such indi-
7 vidual’s counsel or advocate, about the sexual history
8 between such individual and the individual reporting
9 the covered allegation).

10 “(6) The institution shall ensure that the pro-
11 ceeding is carried out free from conflicts of interest
12 by ensuring that there is no commingling of admin-
13 istrative or adjudicative roles. For purposes of this
14 paragraph, an institution shall be considered to com-
15 mingle such roles if any individual carries out more
16 than one of the following roles with respect to the
17 proceeding:

18 “(A) Victim counselor and victim advocate.

19 “(B) Investigator.

20 “(C) Prosecutor.

21 “(D) Adjudicator.

22 “(E) Appellate adjudicator.

23 “(b) STANDARD OF PROOF.—An institution of higher
24 education may establish and apply such standard of proof
25 as it considers appropriate for purposes of any adjudica-

1 tion carried out as part of an institutional disciplinary pro-
2 ceeding under this section.

3 “(c) JUDICIAL REVIEW.—

4 “(1) PRIVATE RIGHT OF ACTION.—Any indi-
5 vidual who is aggrieved by a decision to impose a
6 sanction under an institutional disciplinary pro-
7 ceeding under this section may bring a civil action
8 in an appropriate district court of the United States,
9 but only if the action is brought not later than 1
10 year after the date on which the individual received
11 final notice of the sanction imposed on the individual
12 under the proceeding.

13 “(2) STANDARD FOR REVIEW.—In any action
14 brought under this subsection, the court may find
15 for the plaintiff only if the court finds that the im-
16 position of the sanction was arbitrary, capricious, or
17 contrary to law.

18 “(3) RECORDS.—As soon as practicable after a
19 civil action is filed under this subsection, the institu-
20 tion of higher education involved shall forward the
21 administrative record of the institutional disciplinary
22 proceeding to the court.

23 “(4) DAMAGES AND PREVAILING PARTY
24 FEES.—In any civil action under this subsection, the
25 court may award the prevailing party (other than

1 the institution of higher education) compensatory
2 damages, reasonable court costs, attorney fees, in-
3 cluding expert fees, and any other relief in equity or
4 law that the court deems appropriate.

5 “(d) PUBLICATION IN STUDENT HANDBOOK.—Each
6 institution of higher education which is subject to this part
7 shall publish annually in the institution’s Student Hand-
8 book (or equivalent publication) a statement of the proce-
9 dures applicable to institutional disciplinary proceedings
10 under this section, and shall publish such statement in the
11 form of a contract between the institution and its students
12 and student organizations.

13 “(e) NO RIGHT TO PAID ADVOCATE.—Nothing in
14 this section shall be construed to create a right for any
15 individual to be represented by an attorney or other advo-
16 cate at an institution of higher education’s expense.

17 **“SEC. 165. PRESERVATION OF SINGLE-SEX EXEMPTION FOR**
18 **STUDENT ORGANIZATIONS.**

19 “(a) RESTATEMENT OF CONGRESSIONAL POSITION
20 ON TITLE IX AND SINGLE-SEX ORGANIZATIONS.—Con-
21 gress finds as follows:

22 “(1) The enactment of title IX of the Education
23 Amendments of 1972 (commonly known as ‘title
24 IX’) continues to be a vital element of ensuring all
25 Americans have equal access to higher education.

1 “(2) The exemption under title IX that allows
2 single-sex organizations to continue to flourish at in-
3 stitutions of higher education is still essential to de-
4 veloping a wide range of enrichment opportunities
5 for students to learn and grow.

6 “(3) While title IX has done much to provide
7 opportunities for women and men alike, the single-
8 sex exemption is a part of that tapestry of opportu-
9 nities, and institutions of higher education may not
10 take actions that undermine this single-sex exemp-
11 tion.

12 “(b) PROHIBITING INSTITUTIONS FROM REQUIRING
13 SINGLE-SEX STUDENT ORGANIZATIONS TO WAIVE TITLE
14 IX PROTECTIONS.—An institution of higher education
15 which is subject to this part may not—

16 “(1) require a student organization which is au-
17 thorized under section 901(a)(6)(A) of the Edu-
18 cation Amendments of 1972 (20 U.S.C.
19 1681(a)(6)(A)) to limit its membership to individ-
20 uals of one sex to admit individuals as members who
21 do not meet the organization’s membership require-
22 ments;

23 “(2) compel a student organization or the gov-
24 erning body of a student organization that is itself
25 comprised of single-sex organizations to accept orga-

1 nizations or individuals that do not meet the organi-
2 zation's or governing body's membership qualifica-
3 tions; or

4 “(3) require an organization which is covered
5 by section 901(a)(6)(A) of the Education Amend-
6 ments of 1972 (20 U.S.C. 1681(a)(6)(A)) to waive
7 its coverage under such section as a disciplinary or
8 punitive measure.”.

9 (b) EFFECTIVE DATE.—The amendments made by
10 this Act shall apply with respect to allegations made on
11 or after the expiration of the 1-year period that begins
12 on the date of the enactment of this Act.

○