

118TH CONGRESS  
1ST SESSION

# S. 3396

To establish the Office of the Special Inspector General for Unlawful  
Discrimination in Higher Education within the Department of Education.

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IN THE SENATE OF THE UNITED STATES

DECEMBER 5, 2023

Mr. VANCE (for himself, Mr. BUDD, Mr. BRAUN, Mr. SCHMITT, Mr. RUBIO,  
and Mr. HAWLEY) introduced the following bill; which was read twice and  
referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To establish the Office of the Special Inspector General  
for Unlawful Discrimination in Higher Education within  
the Department of 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 “College Admissions Ac-  
5 countability Act of 2023”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) 21st century elite college admissions func-  
9 tions as the Nation’s sorting machine for prestige

1 and opportunity, allocating a limited number of valu-  
2 able credentials.

3 (2) For decades American colleges and univer-  
4 sities adopted admissions and policies practices that  
5 rendered special preferences to applicants on the  
6 basis of race.

7 (3) In *Students for Fair Admissions, Inc. v.*  
8 *President and Fellows of Harvard College*, 143 S.  
9 Ct. 2141 (2023), the Supreme Court of the United  
10 States found race-based admissions policies to be in  
11 violation of the Equal Protection Clause of the 14th  
12 Amendment to the Constitution of the United States  
13 and title VI of the Civil Rights Act of 1964 (42  
14 U.S.C. 2000d et seq.). The Court further held that  
15 “universities may not simply establish through appli-  
16 cation essays or other means the regime we hold un-  
17 lawful today”.

18 (4) Following the Court’s ruling, several Amer-  
19 ican colleges and universities issued statements or  
20 unveiled new policies at odds with its letter and spir-  
21 it.

22 (5) Institutions of higher education, including  
23 their offices of admission, must comply with the  
24 Constitution and laws of the United States, as inter-  
25 preted by the judiciary.

1           (6) It is the duty of the United States Govern-  
 2           ment to protect the civil rights of its citizens and to  
 3           enforce the Constitution and laws of the United  
 4           States, as interpreted by the judiciary.

5 **SEC. 3. SPECIAL INSPECTOR GENERAL FOR UNLAWFUL**  
 6                                   **DISCRIMINATION IN HIGHER EDUCATION.**

7           (a) IN GENERAL.—Title II of the Department of  
 8           Education Organization Act (20 U.S.C. 3411 et seq.) is  
 9           amended by adding at the end the following:

10 **“SEC. 221. SPECIAL INSPECTOR GENERAL FOR UNLAWFUL**  
 11                                   **DISCRIMINATION IN HIGHER EDUCATION.**

12           “(a) DEFINITIONS.—In this section:

13                           “(1) APPROPRIATE COMMITTEES OF CON-  
 14           GRESS.—The term ‘appropriate committees of Con-  
 15           gress’ means—

16                                   “(A) the Committee on Health, Education,  
 17           Labor, and Pensions of the Senate;

18                                   “(B) the Subcommittee on Labor, Health  
 19           and Human Services, Education, and Related  
 20           Agencies of the Committee on Appropriations of  
 21           the Senate;

22                                   “(C) the Committee on Education and the  
 23           Workforce of the House of Representatives; and

24                                   “(D) the Subcommittee on Labor, Health  
 25           and Human Services, Education of the Com-

1           committee on Appropriations of the House of Rep-  
2           representatives.

3           “(2) COVERED INDIVIDUAL.—The term ‘cov-  
4           ered individual’ means any individual who—

5                   “(A) files an application for admission as  
6                   a student at a covered institution; or

7                   “(B) is enrolled as a student at a covered  
8                   institution.

9           “(3) COVERED INSTITUTION.—The term ‘cov-  
10           ered institution’ means an institution of higher edu-  
11           cation that receives funds from Federal student as-  
12           sistance or Federal institutional aid under the High-  
13           er Education Act of 1965.

14           “(b) OFFICE OF INSPECTOR GENERAL.—There is  
15           hereby established within the Department the Office of the  
16           Special Inspector General for Unlawful Discrimination in  
17           Higher Education.

18           “(c) APPOINTMENT OF INSPECTOR GENERAL; RE-  
19           MOVAL; BASIC PAY.—

20                   “(1) IN GENERAL.—The head of the Office of  
21                   the Special Inspector General for Unlawful Discrimi-  
22                   nation in Higher Education shall be the Special In-  
23                   spector General for Unlawful Discrimination in  
24                   Higher Education (referred to in this section as the  
25                   ‘Special Inspector General’), who shall be appointed

1 by the President, by and with the advice and consent  
2 of the Senate.

3 “(2) NOMINATION.—The nomination of the  
4 Special Inspector General shall be made on the basis  
5 of integrity and demonstrated familiarity with higher  
6 education and admissions, in addition to expertise in  
7 auditing, civil rights, law, academic administration,  
8 education regulation, or investigations.

9 “(3) REMOVAL.—The Special Inspector General  
10 shall be removable from office in accordance with  
11 the provisions of section 403(b) of title 5, United  
12 States Code.

13 “(4) BASIC PAY.—The annual rate of basic pay  
14 of the Special Inspector General shall be the annual  
15 rate of basic pay for an Inspector General under sec-  
16 tion 403(e) of title 5, United States Code.

17 “(d) DUTIES.—

18 “(1) IN GENERAL.—It shall be the duty of the  
19 Special Inspector General to, in accordance with sec-  
20 tion 404(b)(1) of title 5, United States Code—

21 “(A) receive, review, and investigate allega-  
22 tions from covered individuals or employees of  
23 covered institutions of admissions decisions,  
24 policies, or practices, or financial aid determina-

1           tions or academic programs, that are in viola-  
2           tion of—

3                   “(i) the Equal Protection Clause of  
4                   the 14th Amendment to the Constitution  
5                   of the United States, pursuant to the hold-  
6                   ing in *Students for Fair Admissions, Inc.*  
7                   *v. President and Fellows of Harvard Col-*  
8                   *lege*, 143 S. Ct. 2141 (2023) (referred to  
9                   in this subsection as the ‘Equal Protection  
10                  Clause)’; or

11                  “(ii) title VI of the Civil Rights Act of  
12                  1964 (42 U.S.C. 2000d et seq.) (referred  
13                  to in this subsection as ‘title VI’);

14                  “(B) review any Federal policies and pro-  
15                  grams that have the effect of incentivizing cov-  
16                  ered institutions to violate the Equal Protection  
17                  Clause or title VI; and

18                  “(C) make recommendations to the appli-  
19                  cable covered institution, the Secretary, the At-  
20                  torney General of the United States, and the  
21                  appropriate committees of Congress regard-  
22                  ing—

23                   “(i) measures that the covered institu-  
24                   tion should take to remedy any violation

1 described in subparagraph (A) through re-  
2 medial or corrective action;

3 “(ii) any employee of the covered in-  
4 stitution that the Special Inspector Gen-  
5 eral determines, after a review or inves-  
6 tigation described in subparagraph (A),  
7 should face disciplinary action (including  
8 removal) as a result of a violation de-  
9 scribed in such subparagraph;

10 “(iii) eligibility of the covered institu-  
11 tion to receive funds from Federal student  
12 assistance or Federal institutional aid;

13 “(iv) further investigation into the  
14 covered institution’s compliance with the  
15 Constitution of the United States, title VI,  
16 and other laws of the United States; and

17 “(v) reforms to any Federal policies  
18 and programs that have the effect of  
19 incentivizing covered institutions to violate  
20 the Equal Protection Clause or title VI.

21 “(2) MAINTENANCE OF SYSTEMS.—The Special  
22 Inspector General shall establish, maintain, and  
23 oversee such systems, procedures, and controls as  
24 the Special Inspector General considers appropriate

1 to discharge the duties of the Special Inspector Gen-  
2 eral under paragraph (1).

3 “(3) ADDITIONAL DUTIES AND RESPONSIBIL-  
4 ITIES.—In addition to the duties described in para-  
5 graphs (1) and (2), the Special Inspector General  
6 shall also have the duties and responsibilities of in-  
7 spectors general under chapter 4 of title 5, United  
8 States Code.

9 “(4) CONFIDENTIALITY OF INFORMATION.—  
10 The Special Inspector General shall maintain the  
11 confidentiality of the identity of any person submit-  
12 ting information to the Special Inspector General for  
13 the purposes of carrying out the duties of the Spe-  
14 cial Inspector General under this section, including  
15 in any report submitted under subsection (g).

16 “(e) POWERS AND AUTHORITIES.—

17 “(1) IN GENERAL.—In carrying out the duties  
18 of the Special Inspector General under subsection  
19 (d), the Special Inspector General shall have the au-  
20 thorities provided in section 406 of title 5, United  
21 States Code.

22 “(2) TREATMENT OF OFFICE.—The Office of  
23 the Special Inspector General shall be considered to  
24 be an office described in section 406(f)(3) of title 5,  
25 United States Code.



1       “(f) PERSONNEL, FACILITIES, AND OTHER RE-  
2 SOURCES.—

3               “(1) APPOINTMENT OF OFFICERS AND EMPLOY-  
4 EES.—

5                       “(A) IN GENERAL.—The Special Inspector  
6 General may select, appoint, and employ such  
7 officers and employees as may be necessary for  
8 carrying out the duties of the Special Inspector  
9 General.

10                      “(B) STATUS.—The positions to which of-  
11 ficers and employees are appointed under sub-  
12 paragraph (A) shall be positions in schedule C  
13 of subpart C of part 213 of title 5, Code of  
14 Federal Regulations, or any successor regula-  
15 tions.

16                      “(2) EXPERTS AND CONSULTANTS.—The Spe-  
17 cial Inspector General may obtain services as au-  
18 thorized under section 3109 of title 5, United States  
19 Code, at daily rates not to exceed the equivalent rate  
20 prescribed for grade GS-15 of the General Schedule  
21 by section 5332 of that title.

22                      “(3) CONTRACTS.—The Special Inspector Gen-  
23 eral may enter into contracts and other arrange-  
24 ments for audits, studies, analyses, and other serv-  
25 ices with public agencies and with private persons,

1 and make such payments as may be necessary to  
2 carry out the duties of the Special Inspector Gen-  
3 eral.

4 “(g) REPORTS.—

5 “(1) QUARTERLY REPORTS.—

6 “(A) IN GENERAL.—Not later than 60  
7 days after the date on which the Special Inspec-  
8 tor General is confirmed, and once every cal-  
9 endar quarter thereafter, the Special Inspector  
10 General shall submit to the appropriate commit-  
11 tees of Congress a report summarizing the ac-  
12 tivities of the Special Inspector General during  
13 the 3-month period ending on the date on which  
14 the Special Inspector General submits the re-  
15 port.

16 “(B) CONTENTS.—Each report submitted  
17 under subparagraph (A) shall include, for the  
18 period covered by the report, the following:

19 “(i) A general description of the alle-  
20 gations received and reviewed by the Spe-  
21 cial Inspector General under subsection  
22 (d)(1)(A).

23 “(ii) Recommendations of the Special  
24 Inspector General regarding reforms that  
25 the Special Inspector General believes

1 should be undertaken with respect to the  
2 authority of the Special Inspector General  
3 and matters within the authority of the  
4 Special Inspector General to review and in-  
5 vestigate, including the authority described  
6 in subsection (d)(1)(B).

7 “(iii) For a covered institution with  
8 respect to which an allegation submitted  
9 under this section applies, the steps that  
10 the covered institution has taken, and has  
11 yet to take, to remedy the issues outlined  
12 in the allegation.

13 “(iv) Data regarding the number of  
14 allegations received and reviewed by the  
15 Special Inspector General under this sec-  
16 tion that document any legitimate viola-  
17 tion, as determined by the Special Inspec-  
18 tor General, which shall—

19 “(I) be disaggregated by the  
20 number of violations committed by  
21 each covered institution; and

22 “(II) contain a separate provision  
23 listing the number of those acts that  
24 relate to racial bias, which shall be

1                   disaggregated as described in sub-  
2                   clause (I).

3                   “(v) Commentary by the Special In-  
4                   spector General regarding the level of co-  
5                   operation by each covered institution with  
6                   respect to reviews and investigations per-  
7                   formed by the Special Inspector General,  
8                   including, with respect to each covered in-  
9                   stitution, whether the covered institution  
10                  has implemented recommendations made  
11                  by the Special Inspector General and  
12                  whether the covered institution has pro-  
13                  vided information or access requested by  
14                  the Special Inspector General.

15                  “(2) RULE OF CONSTRUCTION.—Nothing in  
16                  this subsection may be construed to authorize the  
17                  public disclosure of information that is—

18                         “(A) specifically prohibited from disclosure  
19                         by any other provision of law;

20                         “(B) specifically required by Executive  
21                         order to be protected from disclosure in the in-  
22                         terest of national defense or national security or  
23                         in the conduct of foreign affairs; or

24                         “(C) a part of an ongoing criminal inves-  
25                         tigation.

1       “(h) FUNDING.—There are authorized to be appro-  
2 priated \$25,000,000 to carry out this section, which shall  
3 remain available until expended.

4       “(i) COUNCIL OF THE INSPECTORS GENERAL ON IN-  
5 TEGRITY AND EFFICIENCY.—The Special Inspector Gen-  
6 eral shall be a member of the Council of the Inspectors  
7 General on Integrity and Efficiency established under sec-  
8 tion 424 of title 5, United States Code.

9       “(j) CORRECTIVE RESPONSES TO AUDIT PROB-  
10 LEMS.—A covered institution shall—

11               “(1) take action to address deficiencies identi-  
12 fied by a report or investigation of the Special In-  
13 spector General; or

14               “(2) with respect to a deficiency identified  
15 under paragraph (1), certify to the Special Inspector  
16 General and the appropriate committees of Congress  
17 that no action is necessary or appropriate.

18       “(k) RULE OF CONSTRUCTION.—Nothing in this sec-  
19 tion may be construed as limiting the authority of the In-  
20 spector General of the Department.

21       “(l) SUNSET.—The Office of the Special Inspector  
22 General for Unlawful Discrimination in Higher Education,  
23 established under this section, shall terminate on the date  
24 that is 12 years after the date of enactment of the College  
25 Admissions Accountability Act of 2023.”.

1 (b) TABLE OF CONTENTS.—The table of contents in  
 2 section 1 of the Department of Education Organization  
 3 Act (20 U.S.C. 3401 note) is amended by inserting after  
 4 the item relating to section 220 the following new item:

“Sec. 221. Special Inspector General for Unlawful Discrimination in Higher  
 Education.”.

5 (c) HIGHER EDUCATION ACT OF 1965.—Part B of  
 6 title I of the Higher Education Act of 1965 (20 U.S.C.  
 7 1011 et seq.) is amended by adding at the end the fol-  
 8 lowing:

9 **“SEC. 124. INELIGIBILITY DUE TO DISCRIMINATION ON THE**  
 10 **BASIS OF RACE IN VIOLATION OF EQUAL**  
 11 **PROTECTION CLAUSE OR TITLE VI.**

12 “Notwithstanding any other provision of law, no in-  
 13 stitution of higher education shall be eligible to receive  
 14 funds from Federal student assistance or Federal institu-  
 15 tional aid under this Act if the Secretary determines that  
 16 the institution had an admissions decision, policy, or prac-  
 17 tice, or financial aid determination or academic program,  
 18 that discriminated on the basis of race in violation of—

19 “(1) the Equal Protection Clause of the 14th  
 20 Amendment to the Constitution of the United  
 21 States, pursuant to the holding in *Students for Fair*  
 22 *Admissions, Inc. v. President and Fellows of Har-*  
 23 *vard College*, 143 S. Ct. 2141 (2023); or

1           “(2) title VI of the Civil Rights Act of 1964 (42  
2           U.S.C. 2000d et seq.).”.

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