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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

To modify the criteria for recognition of accrediting agencies or associations
for institutions of higher education.

IN THE HOUSE OF REPRESENTATIVES

Ms. STEFANIK introduced the following bill; which was referred to the
Committee on _____

A BILL

To modify the criteria for recognition of accrediting agencies
or associations for institutions of 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 “Fairness in Higher
5 Education Accreditation Act”.

6 **SEC. 2. CRITERIA FOR RECOGNITION OF ACCREDITING**
7 **AGENCIES OR ASSOCIATIONS.**

8 Section 496 of the Higher Education Act of 1965 (20
9 U.S.C. 1099b) is amended—

1 (1) in subsection (a)—

2 (A) in paragraph (5)—

3 (i) in subparagraph (I), by striking
4 “and” after the semicolon;

5 (ii) in subparagraph (J), by inserting
6 “and” after the semicolon; and

7 (iii) by inserting after subparagraph
8 (J), and before the flush text, the fol-
9 lowing:

10 “(K) except in the case of an institution
11 described in subsection (r)(2), success in ensur-
12 ing a right of free inquiry (as defined in sub-
13 section (r)(1));”;

14 (B) in paragraph (7), by striking “and”
15 after the semicolon;

16 (C) in paragraph (8), by striking the pe-
17 riod at the end and inserting a semicolon; and

18 (D) by adding at the end the following:

19 “(9) such accrediting agency or association will
20 not impose requirements, establish standards, con-
21 duct investigations, or make recommendations con-
22 cerning—

23 “(A) the race, color, sex, or national origin
24 composition of the student body, faculty, or
25 staff;

1 “(B) the race, color, sex, or national origin
2 of the students, faculty members, or staff mem-
3 bers who are in leadership roles; or

4 “(C) the race, color, sex, or national origin
5 of the students, faculty members, or staff mem-
6 bers who receive honors or special commenda-
7 tions;

8 “(10) such an accrediting agency or association
9 may only be determined to be a reliable authority as
10 to the quality of education or training offered for the
11 purposes of this Act or for other Federal purposes
12 if the agency or association permits each institution
13 of higher education that the agency or association
14 accredits (and each component or subpart of each
15 institution of higher education that the agency or as-
16 sociation accredits) to adopt any lawful policy with
17 regard to the factors described in subparagraphs (A)
18 through (C) of paragraph (9), notwithstanding the
19 particular mission of an institution of higher edu-
20 cation (or component or subpart thereof); and

21 “(11) as part of the accrediting process, such
22 an accrediting agency or association may not con-
23 sider any factor described in subparagraphs (A)
24 through (C) of paragraph (9).”;

1 (2) in subsection (p), by striking “Nothing in
2 subsection (a)(5)” and inserting “Subject to sub-
3 section (a)(9), nothing in subsection (a)(5)”; and

4 (3) by adding at the end the following:

5 “(r) FREE INQUIRY.—

6 “(1) FREE INQUIRY.—In this section, the term
7 ‘free inquiry’ means—

8 “(A) in the case of a public institution of
9 higher education that is legally required to
10 abide by the First Amendment to the Constitu-
11 tion, compliance with—

12 “(i) the First Amendment to the Con-
13 stitution, including protections for freedom
14 of speech, association, press, religion, as-
15 sembly, and petition; and

16 “(ii) the institution’s own written poli-
17 cies regarding academic freedom; or

18 “(B) in the case of a private institution of
19 higher education, adherence to the institution’s
20 written institutional policies concerning freedom
21 of speech, association, press, religion, assembly,
22 petition, and academic freedom.

23 “(2) RELIGIOUS EXEMPTION.—An institution
24 described in any of subparagraphs (A) through (F)
25 shall not be subject to the free inquiry requirements

1 of subsection (a)(5)(K). Such exempt institutions
2 shall include an institution—

3 “(A) that is a school or department of di-
4 vinity;

5 “(B) that requires its faculty, students, or
6 employees to be members of, or otherwise en-
7 gage in religious practices of, or espouse a per-
8 sonal belief in, the religion of the organization
9 by which it claims to be controlled;

10 “(C) that in its charter or catalog, or other
11 official publication, contains an explicit state-
12 ment that it is controlled by a religious organi-
13 zation or an organ thereof, or is committed to
14 the doctrines or practices of a particular reli-
15 gion, and the members of its governing body
16 are appointed by the controlling religious orga-
17 nization or an organ thereof, and it receives a
18 significant amount of financial support from
19 the controlling religious organization or an
20 organ thereof;

21 “(D) that has a doctrinal statement or a
22 statement of religious practices, along with a
23 statement that members of the institution com-
24 munity must engage in the religious practices
25 of, or espouse a personal belief in, the religion,

1 its practices, or the doctrinal statement or
2 statement of religious practices;

3 “(E) that has a published institutional
4 mission that is approved by the governing body
5 of an educational institution and that includes,
6 refers to, or is predicated upon religious tenets,
7 beliefs, or teachings; or

8 “(F) with respect to which there is other
9 evidence sufficient to establish that the institu-
10 tion is controlled by a religious organization,
11 pursuant to section 901(a)(3) of the Education
12 Amendments of 1972 (20 U.S.C. 1681(a)(3)).”.

13 **SEC. 3. CIVIL ACTION.**

14 An institution of higher education (as defined in sec-
15 tion 102 of the Higher Education Act of 1965 (20 U.S.C.
16 1002)) that is subject to a denial, withdrawal, or termi-
17 nation, or imminent threat of denial, withdrawal, or termi-
18 nation, of accreditation as a result of an accrediting agen-
19 cy or association’s violation of the prohibition established
20 in section 496(a)(10) of the Higher Education Act of 1965
21 (20 U.S.C. 1099b(a)), as added by section 2 of this Act,
22 may pursue a civil action in accordance with subsections
23 (e) and (f) of such section 496.