

**AMENDMENT TO THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE TO H.R. 4508  
OFFERED BY MR. GARRETT OF VIRGINIA**

In subsection (b) of section 112 of the Higher Education Act of 1965, as proposed to be added by section 111(3) of the Amendment—

(1) strike “No institution” and insert the following:

1           “(1) IN GENERAL.—No institution”;

2           (2) strike “may occur” and insert “may occur,  
3           and the right to submit a complaint under para-  
4           graph (2) if the institution is not in compliance with  
5           any policy disclosed under this paragraph or is en-  
6           forcing a policy related to protected speech that has  
7           not been disclosed by the institution under this para-  
8           graph”;

9           (3) strike the closed quotation marks and sec-  
10          ond period at the end; and

11          (4) add at the end the following:

12          “(2) COMPLAINT ON SPEECH POLICIES.—

13                 “(A) DESIGNATION OF AN EMPLOYEE.—

14                 The Secretary shall designate an employee in  
15                 the Office of Postsecondary Education of the

1 Department to receive complaints from students  
2 or student organizations that believe an institu-  
3 tion is not in compliance with any policy dis-  
4 closed under paragraph (1) or is enforcing a  
5 policy related to protected speech that has not  
6 been disclosed by the institution under such  
7 paragraph.

8 “(B) COMPLAINT.—A complaint submitted  
9 under subparagraph (A)—

10 “(i) shall—

11 “(I) include the provision of the  
12 institution’s policy the complainant  
13 believes the institution is not in com-  
14 pliance with or how the institution is  
15 enforcing a policy related to protected  
16 speech that has not been disclosed  
17 under paragraph (1); and

18 “(II) be filed not later than 7  
19 days of the complainant’s denial of a  
20 right to speak; and

21 “(ii) may affirmatively assert that the  
22 violation described in clause (i)(I) is a vio-  
23 lation of the complainant’s constitutional  
24 rights.

25 “(C) SECRETARIAL REQUIREMENTS.—

1 “(i) REVIEW.—

2 “(I) IN GENERAL.—Not later  
3 than 7 days after the receipt of the  
4 complaint, the Secretary shall review  
5 the complaint and request a response  
6 to the complaint from the institution.

7 “(II) RESPONSE OF SEC-  
8 RETARY.—Not later than 10 days  
9 after the receipt of the complaint, the  
10 Secretary shall make a decision with  
11 respect to such complaint, without re-  
12 gard to whether the institution pro-  
13 vides a response to such complaint.

14 “(ii) DETERMINATION THAT INSTITU-  
15 TION FAILED TO COMPLY.—If, upon the  
16 review required under clause (i), the Sec-  
17 retary determines that the institution is  
18 not in compliance with the institution’s  
19 policy disclosed under paragraph (1), or  
20 the institution is enforcing a policy that  
21 was not disclosed under paragraph (1), the  
22 Secretary shall—

23 “(I)(aa) if the Secretary deter-  
24 mines that the institution was not in  
25 compliance with a disclosed policy, re-

1           quire the institution to comply with  
2           the disclosed policy and provide the  
3           complainant an opportunity to speak  
4           as any other speaker would be per-  
5           mitted to speak; or

6                   “(bb) if the Secretary determines  
7                   that the institution was enforcing an  
8                   undisclosed policy, require the institu-  
9                   tion to immediately comply with dis-  
10                  closure requirement under paragraph  
11                  (1) and to allow the complainant to  
12                  speak as if such policy were not held  
13                  by the institution; and

14                   “(II) require the institution to  
15                   post the decision of the Secretary on  
16                   the website of the institution, except  
17                   in the case in which the complainant  
18                   requests that the decision not be  
19                   shared.

20                   “(iii) REFERRAL.—If the Secretary  
21                   believes the denial of the right to speak  
22                   may be a violation of the Constitutional  
23                   rights of the complainant, the Secretary  
24                   shall refer the complaint to the Depart-  
25                   ment of Justice.

1 “(D) LIMITATIONS.—

2 “(i) INSTITUTION’S RELIGIOUS BE-  
3 LIEFS OR MISSION.—The Secretary shall  
4 defer to the institution’s religious beliefs or  
5 mission that the institution describes in its  
6 response to the complaint as applicable to  
7 the complaint.

8 “(ii) PROHIBITION ON REGULATIONS  
9 OR GUIDANCE.—The Secretary—

10 “(I) shall not promulgate any  
11 regulations with respect to this para-  
12 graph; and

13 “(II) may only issue guidance  
14 that explains or clarifies the process  
15 for filing or reviewing a complaint  
16 under this paragraph.”.

