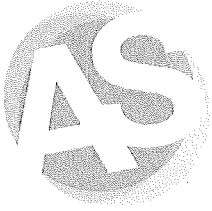


Doc. 121 V. Galloway 4/3/14
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Tyler Clementi Higher Education Anti-Harassment Act of 2014

Proposed Motions: Support the Tyler Clementi Higher Education Anti-Harassment Act of 2014

Sponsor: Kaylee Galloway, AS VP for Governmental Affairs

Date: April 3, 2014

Attached Document

Tyler Clementi Higher Education Anti-Harassment Act of 2014 Senate Bill
U.S. Senate One Pager on Tyler Clementi Higher Education Anti-Harassment Act of 2014

Summary of Proposal

Even though this topic was not selected as one of the three federal priorities selected and approved by the LAC and Board of Directors, it is still very important and relevant to students. The AS President (Carly Roberts), AS VP for Governmental Affairs (Kaylee Galloway), and AS Legislative Liaison (Matthew Bobbink), will be leaving April 5th for the AS Federal Lobby Trip in Washington DC.

Recently, it was brought to our attention that Senator Patty Murray is one of the key sponsors in the Tyler Clementi Higher Education Anti-Harassment Act of 2014 and that we should be prepared to take a stance on this issue during our lobby visits. Even though this student issue will not be listed in our physical federal agenda, it is important that we take a stance to best prepare and represent students at the federal level.

Background & Context

The Tyler Clementi Higher Education Anti-Harassment Act has historically been included on AS WWU Federal Agendas.

2013:

H.R. 482, S. 216 The Tyler Clementi Higher Education Anti-Harassment Act

Bullying and harassment based on sexual orientation is an occurrence which happens far too often on college campuses, and we believe that Congress must ensure that all college students have access to a safe learning environment.

2012:

Tyler Clementi Higher Education Anti-Harassment Bill

WHEREAS, lesbian, gay, bisexual, and trans gender students report higher rates of harassment than their peers; and

WHEREAS, according to the WWU 2012 Student Climate Survey, LGBT students on Western's campus are more likely to report discrimination based on sexual orientation and gender identity than at peer institutions, and are 132% more likely to report being harassed in the last twelve months on campus than non-minority students; and

WHEREAS, bullying and harassment can lead to long-term psychological, academic, social, and physical consequences including increased absences, depression, feelings of isolation, and difficulty focusing; and

WHEREAS, this bill would require all institutions of higher education receiving federal funds to put in place a policy prohibiting the harassment of students based on perceived or actual race, color, national origin, disability, sexual orientation, sex, or gender identity; and

WHEREAS, this bill would require that colleges and universities make students explicitly aware of this policy as well as give them guidelines on how to utilize this policy; and

WHEREAS, this bill would recognize cyber bullying as harassment, thereby acknowledging that bullying exists beyond campus and face-to-face interactions; and

WHEREAS, no student should be denied the right to enjoy a campus free of hate or discrimination because of whom they love or how they identify; and

WHEREAS, it is one of the paramount duties of the Associated Students is to foster and support an inclusive climate on our campus for every student at Western; and

BE IT RESOLVED, that the Associated Students supports the Tyler Clementi Higher Education Anti-Harassment Bill as a means to ensure that all college students have access to a safe learning environment.

Rationale

It is important to take stances on current and relevant student issues to ensure proper and adequate student representation at all levels of government.

113TH CONGRESS
2d Session

S. _____

To prevent harassment, at institutions of higher education, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mrs. MURRAY (for herself and Ms. BALDWIN) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To prevent harassment at institutions of higher education, and for other purposes.

*1 Be it enacted by the Senate and House of Representatives
2 of the United States of America, in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Tyler Clementi Higher
5 Education Anti-Harassment Act of 2014”.

**6 SEC. 2. INSTITUTIONAL AND FINANCIAL ASSISTANCE IN-
7 FORMATION FOR STUDENTS.**

8 Section 485(f) of the Higher Education Act of 1965
9 (20 U.S.C. 1092(f)) is amended—

1 (1) by striking' the subsection heading and in-
2 sserting "DISCLOSURE OF CAMPUS SECURITY AND
3 HARASSMENT POLICY AND CAMPUS CRIME STATIS-
4 TICS.";

5 (2) in paragraph (6)(A)—

6 (A) by redesignating clauses (iii), (iv), and
7 (y), as clauses (Hi), (viii), and (ix), respectively;
8 and

9 (B) by inserting after clause (ii) the fol-
10 lowing:

11 "(ü) The term 'commercial mobile sendee' has
12 the meaning given the term in section 332(d) of the
13 Communications Act of 1934 (47 U.S.C. 332(d)).

14 "(iv) The tenn 'electronic communication'
15 means any transfer of signs, signals, writing, im-
16 ages, sounds, or data of any nature transmitted in
17 whole or in part by a vdre, radio, electromagnetic,
18 photoelectronic, or photooptical system.

19 "(v) The term 'electronic messaging sendees'
20 has the meaning given the term in section 102 of the
21 Communications Assistance for Law Enforcement
22 Act (47 U.S.C. 1001),

23 "(vi) The term 'harassment' means conduct, in-
24 eluding acts of verbal, nonverbal, or physical aggres-
25 sion, intimidation, or hostility (including conduct

1 that is undertaken in whole or in part, through the
2 use of electronic messaging sendees, commercial mo-
3 bile sendees, electronic communications, or other
4 technology) that—

5 “(I) is sufficiently severe, persistent, or
6 pervasive, so as to limit a student’s ability to
7 participate in or benefit from a program or ac-
8 tivity at an institution of higher education, or
9 to create a hostile or abusive educational envi-
10 ronment at an institution of higher education;
11 and

12 “(II) is based on a student’s actual or per-
13 ceived—

14 “(aa) race;

15 “(bb) color;

16 “(ee) national origin;

17 “(dd) sex;

18 “(ee) disability;

19 “(ff) sexual orientation;

20 “(gg) gender identity; or

21 “(hh) religion.”;

22 (3) by redesignating paragraphs (9) through
23 (18) as paragraphs (10) through (19), respectively;
24 and

1 (4) by inserting after paragraph (8) the fol-
2 lowing:

3 “(9)(A) Each institution of higher education partiei-
4 pating in any program under this title, other than a for-
5 eign institution of higher education, shall develop and dis-
6 tribute as part of the report described in paragraph (1)
7 a statement of policy regarding harassment, which shall
8 include—

9 “(i) a prohibition of harassment of enrolled stu-
10 dents by other students, faculty, and staff—

11 “(I) on campus;

12 “(II) in noncampus ' buildings or onnon-
13 campus property;

14 “(HI) on public property;

15 “(IV) through the use of electronic mail
16 addresses issued by the institution of higher
17 education;

18 “(V) through the use of computers and
19 communication networks, including any tele-
20 communications sendee, owned, operated, or
21 contracted for use by the institution of higher
22 education or its agents; or

23 “(VI) during an activity sponsored by the
24 institution of higher education or carried out

1 with the use of resources provided by the insti-
2 tution of higher education;

3 “(ii) a description of the institution’s programs
4 to combat harassment, which shall be aimed at the
5 prevention of harassment;

6 “(iii) a description of the procedures that a stu-
7 dent should follow if an incident of harassment oc-
8 curs; and

9 “(iv) a description of the procedures that the
10 institution will follow once an incident of harassment
11 has been reported.

12 “(B) The statement of policy described in subpara-
13 graph (A) shall address the following' areas:

14 “(i) Procedures for timely institutional action in
15 cases of alleged harassment, which procedures shall
16 include a clear statement that the accuser and the
17 accused shall be informed of the outcome of any dis-
18 ciplinary proceedings in response to an allegation of
19 harassment.

20 “(ii) Possible sanctions to be imposed following
21 the final determination of an institutional discipli-
22 nary procedure regarding harassment,

23 “(iii) Notification of existing counseling, mental
24 health, or student services for victims or perpetra-

1 tors of harassment, both on campus and in the com-
2 munity,

3 “(iv) Identification of a designated employee or
4 office at the institution that will be responsible for
5 receiving’ and tracking each report of harassment by
6 a student, faculty, or staff member.”.

7 **SEC. 3. ANTI-HARASSMENT COMPETITIVE GRANT PRO-**
8 **GRAM.**

9 (a) DEFINITIONS.—In this section:

10 (1) ELIGIBLE ENTITY.—The term “eligible enti-
11 ty” means—

12 (A) an institution of higher education, in-
13 cluding an institution of higher education in a
14 collaborative partnership with a nonprofit orga-
15 nization; or

16 (B) a consortium of institutions of higher
17 education located in the same State.

18 (2) Harassment.—The term “harassment”
19 has the meaning given the term in section
20 485(f)(6)(A) of the Higher Education Act of 1965
21 (20 U.S.C. 1092(f)(6)(A)), as amended by section 2
22 of this Act.

23 (3) SECRETARY.—The term “Secretary” means
24 the Secretary of Education.

1 (b) PROGRAM AUTHORIZED.—The Secretary is au-
2 thorized to award grants, on a competitive basis, to eligible
3 entities to enable eligible entities to carry out the author-
4 ized activities described in subsection (d).

5 (c) AMOUNT OF GRANT AWARDS.—The Secretary
6 shall ensure that each grant awarded under this section
7 is of sufficient amount to enable the grantee to meet the
8 purpose of this section.

9 (d) AUTHORIZED ACTIVITIES.—An eligible entity
10 that receives a grant under this section shall use the funds
11 made available through the grant to address one or more
12 of the types of harassment listed in section
13 485(f)(6)(A)(vi)(II) of the Higher Education Act of 1965
14 (20 U.S.C. 1092(f)(6)(A)(vi)(II)), as amended by section
15 2 of this Act, by initiating, expanding, or improving pro-
16 grams—

17 (1) to prevent the harassment of students at in-
18 stitutions of higher education;

19 (2) at institutions of higher education that pro-
20 vide counseling or redress services to students who
21 have suffered such harassment or students who have
22 been accused of subjecting other students to such
23 harassment; or

24 (3) that educate or train students, faculty, or
25 staff of institutions of higher education about ways

1 to prevent harassment or ways to address such har-
2 assment if it occurs.

3 (e) Application.—To be eligible to receive a grant
4 under this section, an eligible entity shall submit an appli-
5 cation to the Secretary at such time, in such manner, and
6 containing such information, as the Secretary may re-
7 quire.

8 (f) DURATION; RENEWAL.—A grant under this sec-
9 tion shall be awarded for a period of not more than 3
10 years. The Secretary may renew a grant under this section
11 for one additional period of not more than 2 years.

12 (g) AWARD CONSIDERATIONS.—In awarding a grant
13 under this section, the Secretary shall select eligible enti-
14 ties that demonstrate the greatest need for a grant and
15 the greatest potential benefit from receipt of a grant.

16 (h) REPORT AND EVALUATION.—

17 (1) EVALUATION AND REPORT TO THE SEC-
18 RE TARY.—Not later than 6 months after the end of
19 the eligible entity's grant period, the eligible entity
20 shall—

21 (A) evaluate the effectiveness of the activi-
22 ties carried out with the use of funds awarded
23 pursuant to this section in decreasing harass-
24 ment and improving tolerance; and

1 (B) prepare and submit to the Secretary a
2 report on the results of the evaluation con-
3 ducted by the entity.

4 (2) EVALUATION AND REPORT TO CONGRESS.—

5 Not later than 12 months after the date of receipt
6 of the first report submitted pursuant to paragraph
7 (1) and annually thereafter, the Secretary shall pro-
8 vide to Congress a report that includes the following;

9 (A) The number and types of eligible enti-
10 ties receiving assistance under this section.

11 (B) The anti-harassment programs being
12 implemented with assistance under this section
13 and the costs of such programs.

14 (C) Any other information determined by
15 the Secretary to be useful in evaluating the
16 overall effectiveness of the program established
17 under this section in decreasing incidents of
18 harassment at institutions of higher education.

19 (3) BEST PRACTICES REPORT.—The Secretary
20 shall use the information provided under paragraph
21 (1) to publish a report of best practices for com-
22 bating harassment at institutions of higher edu-
23 cation. The report shall be made available to all in-
24 stitutions of higher education and other interested
25 parties.

1 (i) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to carry out this section
3 \$50,000,000 for each of fiscal years 2015 through 2020.

4 **SEC. 4. EFFECT ON OTHER LAWS.**

5 Nothing in this Act shall be construed to invalidate
6 or limit rights, remedies, procedures, or legal standards
7 available to victims of discrimination under any other Fed-
8 eral law or law of a State or political subdivision of a
9 State, including title VI of the Civil Rights Act of 1964
10 (42 U.S.C. 2000d et seq.), title IX of the Education
11 Amendments of 1972 (20 U.S.C. 1681 et seq.), section
12 504 or 505 of the Rehabilitation Act of 1973 (29 U.S.C.
13 794, 794a), or the Americans with Disabilities Act of 1990
14 (42 U.S.C. 12101 et seq.). The obligations imposed by this
15 Act are in addition to those imposed by title VI of the
16 Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title
17 IX of the Education Amendments of 1972 (20 U.S.C.
18 1681 et seq.), section 504 of the Rehabilitation Act of
19 1973 (29 U.S.C. 794), and the Americans with Disabil-
20 ities Act of 1990 (42 U.S.C. 12101 et seq.).



TYLER CLEMENTI HIGHER EDUCATION ANTI-HARASSMENT ACT OF 2014

Sponsored by Sen. Patty Murray and Sen. Tammy Baldwin

In 2010, Tyler Clementi, a freshman at Rutgers University, took his own life after his roommate and another student invaded his privacy and harassed him over the Internet. He was eighteen-years-old.

Tyler is one of thousands of college students who are harassed on campus and over the Internet each year. According to a 2004 study by Rowan University, 27.5 percent of college students indicated they had seen students being bullied by other students. LGBT students are nearly twice as likely as their peers to experience harassment, and are far more likely to indicate the harassment was based on their sexual orientation or gender identity. However, there is no requirement that colleges and universities have policies to protect their students and employees from harassment. Nor is there Federal aid dedicated to enact programs to prevent and reduce harassment against students. The ***Tyler Clementi Higher Education Anti-Harassment Act of 2014*** requires colleges and universities to prohibit harassment and establishes within the Department of Education a grant program to support campus anti-harassment programs.

LEGISLATIVE SUMMARY

The Act:

- Requires colleges and universities receiving federal aid to establish an anti-harassment policy prohibiting the harassment of enrolled students based on their actual or perceived race, color, national origin, sex, disability, sexual orientation, gender identity, or religion.
- Requires colleges to distribute their anti-harassment policy to all students and employees, including prospective students and employees, upon request.
- Recognizes “cyberbullying,” which includes harassment undertaken through electronic messaging services, commercial mobile services, and other electronic communications.
- Authorizes a competitive grant program for institutions of higher education to initiate, expand, or improve programs to: (a) prevent the harassment of students; (b) provide counseling or redress services to students who have been harassed or accused of subjecting other students to harassment; and (c) train students, faculty, or staff to prevent harassment or address harassment if it occurs.

This legislation was most recently introduced by the late Sen. Lautenberg in 2013 (S. 216). The language of Sen. Murray’s and Sen. Baldwin’s Tyler Clementi Higher Education Anti-Harassment Act of 2014 is updated language of the bill introduced by Sen. Lautenberg.