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(Original Signature of Member)

117TH CONGRESS
2D SESSION

H. R.

To amend the Higher Education Act of 1965 to clarify competency-based education.

IN THE HOUSE OF REPRESENTATIVES

Mr. GROTHMAN introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Higher Education Act of 1965 to clarify competency-based 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 “Competency-Based
5 Education Act of 2021” or the “CBE Act of 2021”.

6 **SEC. 2. REGULATORY RELIEF.**

7 Beginning on the date of the enactment of this Act—

8 (1) the definition of the term “credit hour” in
9 section 600.2 of title 34, Code of Federal Regula-

1 tions (as in effect on the day before such date of en-
2 actment) shall have no force or effect;

3 (2) for purposes of the Higher Education Act
4 of 1965 (20 U.S.C. 1001 et seq), the term “credit
5 hour” shall have the meaning given that term by the
6 Department of Education in regulation before the
7 effective date of the regulations published by the De-
8 partment of Education in the Federal Register on
9 October 29, 2010 (75 Fed. Reg. 66946); and

10 (3) the Secretary of Education may not promul-
11 gate or enforce any additional regulations or rules
12 with respect to the definition of the term “credit
13 hour” for any purpose under the Higher Education
14 Act of 1965 (20 U.S.C. 1001 et seq.).

15 **SEC. 3. DEFINITIONS.**

16 Section 103 of the Higher Education Act of 1965 (20
17 U.S.C. 1003) is amended by adding at the end the fol-
18 lowing:

19 “(25) COMPETENCY-BASED EDUCATION; COM-
20 PETENCY-BASED EDUCATION PROGRAM.—

21 “(A) COMPETENCY-BASED EDUCATION.—

22 Except as otherwise provided, the term ‘com-
23 petency-based education’ means education
24 that—

1 “(i) measures academic progress and
2 attainment—

3 “(I) by direct assessment of a
4 student’s level of mastery of com-
5 petencies;

6 “(II) by expressing a student’s
7 level of mastery of competencies in
8 terms of equivalent credit or clock
9 hours; or

10 “(III) by a combination of the
11 methods described in subclauses (I) or
12 (II) and credit or clock hours; and

13 “(ii) provides the educational content,
14 activities, and resources, including sub-
15 stantive instructional interaction, including
16 by faculty, and regular support by the in-
17 stitution, necessary to enable students to
18 learn or develop what is required to dem-
19 onstrate and attain mastery of such com-
20 petencies, as assessed by the accrediting
21 agency or association of the institution of
22 higher education.

23 “(B) COMPETENCY-BASED EDUCATION
24 PROGRAM.—Except as otherwise provided, the
25 term ‘competency-based education program’

1 means a postsecondary program offered by an
2 institution of higher education that—

3 “(i) provides competency-based edu-
4 cation, which upon a student’s demonstra-
5 tion or mastery of a set of competencies
6 identified and required by the institution,
7 leads to or results in the award of a certifi-
8 cate, degree, or other recognized edu-
9 cational credential;

10 “(ii) ensures title IV funds may be
11 used only for learning that results from in-
12 struction provided, or overseen, by the in-
13 stitution, not for the portion of the pro-
14 gram of which the student has dem-
15 onstrated mastery prior to enrollment in
16 the program or tests of learning that are
17 not associated with educational activities
18 overseen by the institution; and

19 “(iii) is organized in such a manner
20 that an institution can determine, based on
21 the method of measurement selected by the
22 institution under subparagraph (A)(i),
23 what constitutes a full-time, three-quarter
24 time, half-time, and less than half-time
25 workload for the purposes of awarding and

1 administering assistance under title IV of
2 this Act, or assistance provided under an-
3 other provision of Federal law to attend an
4 institution of higher education.

5 “(C) COMPETENCY DEFINED.—In this
6 paragraph, the term ‘competency’ means the
7 knowledge, skill, or ability demonstrated by a
8 student in a subject area.”.

9 **SEC. 4. GENERAL PROVISIONS RELATING TO STUDENT AS-**
10 **SISTANCE.**

11 (a) DEFINITIONS OF ACADEMIC YEAR AND ELIGIBLE
12 PROGRAM.—Section 481 of the Higher Education Act of
13 1965 (20 U.S.C. 1088) is amended—

14 (1) in subsection (a), by adding at the end the
15 following:

16 “(3)(A) For the purpose of a competency-based edu-
17 cation program the term ‘academic year’ shall be the pub-
18 lished measured period established by the institution of
19 higher education that is necessary for a student with a
20 normal full-time workload for the course of study the stu-
21 dent is pursuing (as measured using the value of com-
22 petencies or sets of competencies required by such institu-
23 tion and approved by such institution’s accrediting agency
24 or association) to earn—

25 “(i) one-quarter of a bachelor’s degree;

1 “(ii) one-half of an associate’s degree; or

2 “(iii) with respect to a non-degree or graduate
3 program, the equivalent of a period described in
4 clause (i) or (ii).

5 “(B)(i) A competency-based education program that
6 is not a term-based program may be treated as a term-
7 based program for purposes of establishing payment peri-
8 ods for disbursement of loans and grants under this title
9 if—

10 “(I) the institution of higher education that of-
11 fers such program charges a flat subscription fee for
12 access to instruction during a period determined by
13 the institution; and

14 “(II) the institution is able to determine the
15 competencies a student is expected to demonstrate
16 for such subscription period.

17 “(ii) Clause (i) shall apply even in a case in which
18 instruction or other work with respect to a competency
19 that is expected to be attributable to a subscription period
20 begins prior to such subscription period.

21 “(iii) In a case in which a competency-based edu-
22 cation program offered by an institution of higher edu-
23 cation is treated as a term-based program under clause
24 (i), the institution shall review the academic progress of
25 each student enrolled in such program in accordance with

1 section 484(c), except that such review shall occur at the
2 end of each payment period.”; and

3 (2) in subsection (b), by striking paragraph (4)
4 and inserting the following:

5 “(4) For purposes of this title, the term ‘eligible pro-
6 gram’ includes a competency-based program that—

7 “(A) has been evaluated and approved by an ac-
8 crediting agency or association that—

9 “(i) is recognized by the Secretary under
10 subpart 2 of part H; and

11 “(ii) has evaluation of competency-based
12 education programs within the scope of its rec-
13 ognition in accordance with section
14 496(a)(4)(C); or

15 “(B) as of the day before the date of enactment
16 of the CBE Act of 2021, met the requirements of
17 a direct assessment program under section
18 481(b)(4) (as such section was in effect on the day
19 before such date of enactment).”.

20 (b) STUDENT ELIGIBILITY.—Section 484 of the
21 Higher Education Act of 1965 (20 U.S.C. 1091) is
22 amended—

23 (1) in subsection (b), by adding at the end the
24 following:

1 “(6) For purposes of competency-based education, in
2 order to be eligible to receive any loan under this title for
3 an award year, a student may be enrolled in coursework
4 attributable only to 2 academic years within the award
5 year.”; and

6 (2) in subsection (c)—

7 (A) in paragraph (1)—

8 (i) in subparagraph (B)—

9 (I) by striking “the student has a
10 cumulative” and inserting the fol-
11 lowing: “the student has—”

12 “(i) a cumulative;”;

13 (II) by striking “the second” and
14 inserting “each”;

15 (III) by striking the period at the
16 end and inserting “; or”; and

17 (IV) by adding at the end the fol-
18 lowing:

19 “(ii) for the purposes of competency-based
20 programs, a non-grade equivalent demonstra-
21 tion of academic standing consistent with the
22 requirements for graduation, as determined by
23 the institution, at the end of each such aca-
24 demic year; and”; and

1 (ii) by adding at the end the fol-
2 lowing:

3 “(C) the student maintains a pace in his or her
4 educational program that—

5 “(i) ensures that the student completes the
6 program within the maximum timeframe; and

7 “(ii) is measured by a method determined
8 by the institution which may be based on credit
9 hours, clock hours, or competencies com-
10 pleted.”;

11 (B) in paragraph (2), by striking “grading
12 period” and inserting “evaluation period”; and

13 (C) by adding at the end the following:

14 “(4) For purposes of this subsection, the term ‘max-
15 imum timeframe’ means—

16 “(A) with respect to an undergraduate program
17 measured in credit hours, a period that is no longer
18 than 150 percent of the published length of the edu-
19 cational program, as measured in credit hours;

20 “(B) with respect to an undergraduate program
21 measured in competencies, a period that is no longer
22 than 150 percent of the published length of the edu-
23 cational program, as measured in competencies;

24 “(C) with respect to an undergraduate program
25 measured in clock hours, a period that is no longer

1 than 150 percent of the published length of the edu-
2 cational program, as measured by the cumulative
3 number of clock hours the student is required to
4 complete and expressed in calendar time; and

5 “(D) with respect to a graduate program, a pe-
6 riod defined by the institution that is based on the
7 length of the educational program.”.

8 (c) RECOGNITION OF ACCREDITING AGENCY OR AS-
9 SOCIATION.—Section 496 of the Higher Education Act of
10 1965 (20 U.S.C. 1099b) is amended—

11 (1) in subsection (a)(4)—

12 (A) in subparagraph (A), by striking
13 “and” at the end; and

14 (B) by striking subparagraph (B) and in-
15 serting the following:

16 “(B) such agency or association demonstrates
17 the ability to review, evaluate, and assess the quality
18 of any instruction delivery model or method such
19 agency or association has or seeks to include within
20 its scope of recognition, without giving preference to
21 or differentially treating a particular instruction de-
22 livery model or method offered by an institution of
23 higher education or program except that, in a case
24 in which the instruction delivery model allows for the
25 separation of the student from the instructor—

1 “(i) the agency or association requires the
2 institution to have processes through which the
3 institution establishes that the student who reg-
4 isters in a course or program is the same stu-
5 dent who participates in, including, to the ex-
6 tent practicable, testing or other assessment,
7 and completes the program and receives the
8 academic credit; and

9 “(ii) the agency or association requires
10 that any process used by an institution to com-
11 ply with the requirement under clause (i) does
12 not infringe upon student privacy and is imple-
13 mented in a manner that is minimally burden-
14 some to the student; and

15 “(C) if such an agency or association evaluates
16 or assesses the quality of competency-based edu-
17 cation programs, the agency’s or association’s eval-
18 uation or assessment—

19 “(i) shall address effectively the quality of
20 an institution’s competency-based education
21 programs as set forth in paragraph (5), except
22 that the agency or association is not required to
23 have separate standards, procedures, or policies
24 for the evaluation of competency-based edu-
25 cation;

1 “(ii) shall establish whether an institution
2 has demonstrated that its program satisfies the
3 definitions in section 103(25); and

4 “(iii) shall establish whether an institution
5 has demonstrated that it has defined an aca-
6 demic year for a competency-based program in
7 accordance with section 481(a)(3).”;

8 (2) in subsection (c)(1), by inserting “or com-
9 petency-based education” after “distance education”;

10 (3) in subsection (n)(3), by inserting “, or com-
11 petency-based education programs,” after each oc-
12 currence of “distance education courses or pro-
13 grams”; and

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

15 “(r) WAIVER.—The Secretary shall establish a proc-
16 ess through which an agency or association may seek to
17 have a requirement of this subpart waived, if such agency
18 or association—

19 “(1) demonstrates that such waiver is necessary
20 to enable an institution of higher education or pro-
21 gram accredited by the agency or association to im-
22 plement innovative practices intended to—

23 “(A) reduce administrative burdens to the
24 institution or program without creating costs
25 for the taxpayer; or

1 “(B) improve the delivery of services to
2 students, improve instruction or learning out-
3 comes, or otherwise benefit students; and
4 “(2) describes the terms and conditions that
5 will be placed upon the program or institution to en-
6 sure academic integrity and quality.”.