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

IN THE SENATE OF THE UNITED STATES

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

A BILL

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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “College Admissions Accountability Act of 2023”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) 21st century elite college admissions functions as the Nation’s sorting machine for prestige
and opportunity, allocating a limited number of valuable credentials.

(2) For decades American colleges and universities adopted admissions and policies practices that rendered special preferences to applicants on the basis of race.

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

(4) Following the Court’s ruling, several American colleges and universities issued statements or unveiled new policies at odds with its letter and spirit.

(5) Institutions of higher education, including their offices of admission, must comply with the Constitution and laws of the United States, as interpreted by the judiciary.
(6) It is the duty of the United States Government to protect the civil rights of its citizens and to enforce the Constitution and laws of the United States, as interpreted by the judiciary.

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

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

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

“(a) Definitions.—In this section:

“(1) Appropriate committees of Congress.—The term ‘appropriate committees of Congress’ means—

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

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

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

“(D) the Subcommittee on Labor, Health and Human Services, Education of the Com-
mittee on Appropriations of the House of Representatives.

“(2) COVERED INDIVIDUAL.—The term ‘covered individual’ means any individual who—

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

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

“(3) COVERED INSTITUTION.—The term ‘covered institution’ means an institution of higher education that receives funds from Federal student assistance or Federal institutional aid under the Higher Education Act of 1965.

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

“(c) APPOINTMENT OF INSPECTOR GENERAL; REMOVAL; BASIC PAY.—

“(1) IN GENERAL.—The head of the Office of the Special Inspector General for Unlawful Discrimination in Higher Education shall be the Special Inspector General for Unlawful Discrimination in Higher Education (referred to in this section as the ‘Special Inspector General’), who shall be appointed
by the President, by and with the advice and consent
of the Senate.

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

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

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

“(d) DUTIES.—

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

“(A) receive, review, and investigate allega-
tions from covered individuals or employees of
covered institutions of admissions decisions,
policies, or practices, or financial aid determina-
tions or academic programs, that are in viola-

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

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

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

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

“(i) measures that the covered institu-
tion should take to remedy any violation
described in subparagraph (A) through remedial or corrective action;

“(ii) any employee of the covered institution that the Special Inspector General determines, after a review or investigation described in subparagraph (A), should face disciplinary action (including removal) as a result of a violation described in such subparagraph;

“(iii) eligibility of the covered institution to receive funds from Federal student assistance or Federal institutional aid;

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

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

“(2) MAINTENANCE OF SYSTEMS.—The Special Inspector General shall establish, maintain, and oversee such systems, procedures, and controls as the Special Inspector General considers appropriate
to discharge the duties of the Special Inspector General under paragraph (1).

“(3) ADDITIONAL DUTIES AND RESPONSIBILITIES.—In addition to the duties described in paragraphs (1) and (2), the Special Inspector General shall also have the duties and responsibilities of inspectors general under chapter 4 of title 5, United States Code.

“(4) CONFIDENTIALITY OF INFORMATION.—

The Special Inspector General shall maintain the confidentiality of the identity of any person submitting information to the Special Inspector General for the purposes of carrying out the duties of the Special Inspector General under this section, including in any report submitted under subsection (g).

“(e) POWERS AND AUTHORITIES.—

“(1) IN GENERAL.—In carrying out the duties of the Special Inspector General under subsection (d), the Special Inspector General shall have the authorities provided in section 406 of title 5, United States Code.

“(2) TREATMENT OF OFFICE.—The Office of the Special Inspector General shall be considered to be an office described in section 406(f)(3) of title 5, United States Code.
“(f) PERSONNEL, FACILITIES, AND OTHER RESOURCES.—

“(1) APPOINTMENT OF OFFICERS AND EMPLOYEES.—

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

“(B) STATUS.—The positions to which officers and employees are appointed under subparagraph (A) shall be positions in schedule C of subpart C of part 213 of title 5, Code of Federal Regulations, or any successor regulations.

“(2) EXPERTS AND CONSULTANTS.—The Special Inspector General may obtain services as authorized under section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS–15 of the General Schedule by section 5332 of that title.

“(3) CONTRACTS.—The Special Inspector General may enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons,
and make such payments as may be necessary to carry out the duties of the Special Inspector General.

“(g) Reports.—

“(1) Quarterly reports.—

“(A) In general.—Not later than 60 days after the date on which the Special Inspector General is confirmed, and once every calendar quarter thereafter, the Special Inspector General shall submit to the appropriate committees of Congress a report summarizing the activities of the Special Inspector General during the 3-month period ending on the date on which the Special Inspector General submits the report.

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

“(i) A general description of the allegations received and reviewed by the Special Inspector General under subsection (d)(1)(A).

“(ii) Recommendations of the Special Inspector General regarding reforms that the Special Inspector General believes
should be undertaken with respect to the 
authority of the Special Inspector General 
and matters within the authority of the 
Special Inspector General to review and in-
vestigate, including the authority described 
in subsection (d)(1)(B).

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

“(iv) Data regarding the number of 
allegations received and reviewed by the 
Special Inspector General under this sec-
tion that document any legitimate violation 
, as determined by the Special Inspector 
General, which shall—

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

“(II) contain a separate provision 
listing the number of those acts that 
relate to racial bias, which shall be
disaggregated as described in sub-clause (I).

“(v) Commentary by the Special Inspector General regarding the level of cooperation by each covered institution with respect to reviews and investigations performed by the Special Inspector General, including, with respect to each covered institution, whether the covered institution has implemented recommendations made by the Special Inspector General and whether the covered institution has provided information or access requested by the Special Inspector General.

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

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

“(B) specifically required by Executive order to be protected from disclosure in the interest of national defense or national security or in the conduct of foreign affairs; or

“(C) a part of an ongoing criminal investigation.
“(h) Funding.—There are authorized to be appropriated $25,000,000 to carry out this section, which shall remain available until expended.

“(i) Council of the Inspectors General on Integrity and Efficiency.—The Special Inspector General shall be a member of the Council of the Inspectors General on Integrity and Efficiency established under section 424 of title 5, United States Code.

“(j) Corrective Responses to Audit Problems.—A covered institution shall—

“(1) take action to address deficiencies identified by a report or investigation of the Special Inspector General; or

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

“(k) Rule of Construction.—Nothing in this section may be construed as limiting the authority of the Inspector General of the Department.

“(l) Sunset.—The Office of the Special Inspector General for Unlawful Discrimination in Higher Education, established under this section, shall terminate on the date that is 12 years after the date of enactment of the College Admissions Accountability Act of 2023.”.
(b) TABLE OF CONTENTS.—The table of contents in section 1 of the Department of Education Organization Act (20 U.S.C. 3401 note) is amended by inserting after the item relating to section 220 the following new item:

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

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

"SEC. 124. INELIGIBILITY DUE TO DISCRIMINATION ON THE BASIS OF RACE IN VIOLATION OF EQUAL PROTECTION CLAUSE OR TITLE VI.

"Notwithstanding any other provision of law, no institution of higher education shall be eligible to receive funds from Federal student assistance or Federal institutional aid under this Act if the Secretary determines that the institution had an admissions decision, policy, or practice, or financial aid determination or academic program, that discriminated on the basis of race in violation of—

"(1) the Equal Protection Clause of the 14th Amendment to the Constitution of the United States, pursuant to the holding in Students for Fair Admissions, Inc. v. President and Fellows of Harvard College, 143 S. Ct. 2141 (2023); or..."
“(2) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).”.