

H.R. 730, Equity and Inclusion Enforcement Act of 2021

As ordered reported by the House Committee on Education and Labor on July 15, 2021

By Fiscal Year, Millions of Dollars	2022	2022-2026	2022-2031
Direct Spending (Outlays)	*	*	*
Revenues	*	*	*
Increase or Decrease (-) in the Deficit	*	*	*
Spending Subject to Appropriation (Outlays)	*	1	not estimated
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032?	No	Contains intergovernmental mandate?	Excluded from UMRA
		Contains private-sector mandate?	Excluded from UMRA
* = between -\$500,000 and \$500,000.			

H.R. 730 would amend title VI of the Civil Rights Act of 1964 to create a private right of action to file disparate impact claims.¹ Disparate impact refers to the discriminatory effects caused by policies that, on their face, appear neutral as instituted by an organization or employer. According to legal experts and an analysis of court filing data from the federal judiciary over the past 30 years, disparate impact claims brought under title VI are most often related to education (although they are applicable to housing and public transportation, among other settings) and have historically constituted a small portion of civil rights litigation—most such claims are filed under other titles of the act regarding employment issues.

CBO expects that enacting H.R. 730 could result in an increase in the number of suits filed in federal courts related to disparate impact cases under title VI. The federal judiciary charges fees to file suit in district court. Those fees are recorded as revenues and can be spent without further appropriation action and are thus classified as direct spending. Because CBO expects

1. Until the Supreme Court's decision in *Alexander v. Sandoval* (532, U.S. 275, 2001), private lawsuits bringing disparate impact cases under title VI were permissible. That decision prevents private plaintiffs from bringing such suits against recipients of federal aid as defined in the statute (42 U.S.C. 2000d-1). For more information, see Jared P. Cole, *Civil Rights at School: Agency Enforcement of Title VI of the Civil Rights Act of 1964*, CRS Report R45665, version 5 (Congressional Research Service, April 4, 2019), <https://go.usa.gov/xvNh4>.



that any additional fees charged by the judiciary would be spent, enacting H.R. 730 would have an insignificant effect on the deficit over the 2022-2031 period.

In addition, H.R. 730 would require recipients of federal funding from the Department of Education that operate educational programs or activities to establish at least one employee coordinator to carry out those recipients' responsibilities under title VI, which include investigating complaints of discrimination based on race, color, or national origin.

The bill also would require the Department of Education to appoint a special assistant for equity and inclusion to promote, coordinate, and evaluate equity and inclusion programs in education. CBO estimates that implementing that requirement would cost \$1 million over the 2022-2026 period.

CBO has not reviewed H.R. 730 for intergovernmental or private-sector mandates. Section 4 of the Unfunded Mandates Reform Act excludes from the application of that act any legislative provisions that would establish or enforce statutory rights prohibiting discrimination. CBO has determined that this legislation falls within that exclusion because it would extend protections against discrimination in education on the basis of race, color, or national origin.

The CBO staff contacts for this estimate are Leah Koestner (for education), Lindsey Wylie (for the judiciary), and Lilia Ledezma (for mandates). The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.