

113TH CONGRESS
1ST SESSION

S. 406

To amend the Higher Education Act of 1965 to provide for new program review requirements.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2013

Mr. LAUTENBERG (for himself, Mr. HARKIN, Mr. ROCKEFELLER, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Higher Education Act of 1965 to provide for new program review requirements.

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 “Students First Act
5 of 2013”.

6 **SEC. 2. PROGRAM REVIEW AND DATA.**

7 (a) IN GENERAL.—Section 498A of the Higher Edu-
8 cation Act of 1965 (20 U.S.C. 1099c–1) is amended to
9 read as follows:

1 **“SEC. 498A. PROGRAM REVIEW AND DATA.**

2 “(a) DEFINITIONS.—In this section:

3 “(1) DEFAULT MANIPULATION.—

4 “(A) IN GENERAL.—The term ‘default ma-
5 nipulation’ means the knowing and willful en-
6 gagement in practices designed to evade sanc-
7 tions resulting from the application of a default
8 rate determination to an institution, such as
9 branching, consolidation of campuses or Office
10 of Postsecondary Education Identification codes
11 that designate campuses, change of ownership
12 or control, serial forbearance, or any similar de-
13 vice or practice, as determined by the Secretary.

14 “(B) EXCLUSION.—The term ‘default ma-
15 nipulation’ shall not include a practice carried
16 out in accordance with a default management
17 plan that has been approved by the Secretary.

18 “(2) EXECUTIVE COMPENSATION.—The term
19 ‘executive compensation’ means the wages, salary,
20 fees, commissions, fringe benefits, deferred com-
21 pensation, retirement contributions, options, bo-
22 nuses, property, and any other form of remuneration
23 that the Secretary determines is appropriate, given
24 to employees who are among the 25 highest com-
25 pensated employees for the taxable year.

1 “(3) FEDERAL FUNDS.—The term ‘Federal
2 funds’ means funds provided directly to an institu-
3 tion or to a student attending such institution under
4 any of the following provisions of law:

5 “(A) This title.

6 “(B) Chapter 30, 31, 32, 33, 34, or 35 of
7 title 38, United States Code.

8 “(C) Chapter 101, 105, 106A, 1606, 1607,
9 or 1608 of title 10, United States Code.

10 “(D) Section 1784a, 2005, or 2007 of title
11 10, United States Code.

12 “(E) Title I of the Workforce Investment
13 Act of 1998 (29 U.S.C. 2801 et seq.).

14 “(F) The Adult Education and Family Lit-
15 eracy Act (20 U.S.C. 9201 et seq.).

16 “(4) RECRUITING AND MARKETING ACTIVI-
17 TIES.—

18 “(A) IN GENERAL.—The term ‘recruiting
19 and marketing activities’ means—

20 “(i) advertising and promotion activi-
21 ties, including naming rights, paid an-
22 nouncements in newspapers, magazines, or
23 electronic media, on radio, television, or
24 billboards, or through any other public me-
25 dium of communication, or paying for dis-

1 plays or promotions at job fairs, military
2 installations, or college recruiting events;

3 “(ii) efforts to identify and attract
4 prospective students, either directly or
5 through a contractor or other third party,
6 including contact concerning a prospective
7 student’s potential enrollment or applica-
8 tion for a grant or loan or work assistance
9 under this title, or participation in
10 preadmission or advising activities, includ-
11 ing—

12 “(I) paying employees responsible
13 for overseeing enrollment and for con-
14 tacting potential students in person,
15 by phone, by email, or by other inter-
16 net communications regarding enroll-
17 ment; and

18 “(II) soliciting an individual to
19 provide contact information to an in-
20 stitution of higher education, includ-
21 ing websites established for such pur-
22 pose and funds paid to third parties
23 for such purpose; and

24 “(iii) such other activities as the Sec-
25 retary may prescribe, including paying for

1 promotion or sponsorship of education or
2 military-related associations.

3 “(B) EXCEPTIONS.—Any activity that is
4 required as a condition of receipt of funds by
5 an institution under this title or is specifically
6 authorized under this title, shall not be consid-
7 ered to be a recruiting or marketing activity
8 under subparagraph (A).

9 “(5) RELEVANT FEDERAL AGENCY.—The term
10 ‘relevant Federal agency’ means—

11 “(A) the Department of Education;

12 “(B) the Department of Veterans Affairs;

13 “(C) the Department of Defense;

14 “(D) the Consumer Financial Protection
15 Bureau;

16 “(E) the Federal Trade Commission; or

17 “(F) any other Federal agency that pro-
18 vides Federal student assistance or that the
19 Secretary determines appropriate.

20 “(6) RELEVANT STATE ENTITY OR AGENCY.—

21 The term ‘relevant State entity or agency’ means—

22 “(A) an appropriate State licensing or au-
23 thorizing agency;

24 “(B) a State Attorney General; or

1 “(C) any other State entity or agency that
2 the Secretary determines appropriate.

3 “(7) SERIAL FORBEARANCE.—The term ‘serial
4 forbearance’ means repeatedly attempting to move
5 students’ loans into forbearance or default manage-
6 ment, especially when the forbearance and default
7 management is not in the best, long term financial
8 interests of the student.

9 “(8) STUDENT DEFAULT RISK.—The term ‘stu-
10 dent default risk’ means a risk that is reflected as
11 a percentage that is calculated by taking an institu-
12 tion’s 3-year cohort default rate, as defined in sec-
13 tion 435(m), for the most recent fiscal year avail-
14 able, and multiplying it by the percentage of stu-
15 dents enrolled at such institution receiving a Federal
16 student loan authorized under this title during the
17 previous academic year.

18 “(b) PROGRAM REVIEWS FOR INSTITUTIONS PAR-
19 TICIPATING UNDER TITLE IV.—

20 “(1) IN GENERAL.—The Secretary shall con-
21 duct program reviews, including on-site visits, of
22 each institution of higher education participating in
23 a program authorized under this title that poses a
24 significant risk of failure to comply with this title,
25 as described in paragraphs (2) and (3).

1 “(2) MANDATORY REVIEWS.—

2 “(A) IN GENERAL.—The Secretary shall,
3 on an annual basis, conduct program reviews of
4 each institution of higher education partici-
5 pating in a program authorized under this title
6 that meets 1 or more of the following criteria:

7 “(i) As of the date of the determina-
8 tion—

9 “(I) more than 15 percent of the
10 students enrolled at the institution
11 have received a Federal Direct Unsub-
12 sidized Stafford Loan during the pre-
13 vious year; and

14 “(II) the institution has a cohort
15 default rate, as defined in section
16 435(m), that is more than twice the
17 average cohort default rate of all in-
18 stitutions participating in programs
19 authorized under this title.

20 “(ii) As of the date of the determina-
21 tion—

22 “(I) the institution has a cohort
23 default rate, as defined in section
24 435(m), that exceeds the national av-
25 erage; and

1 “(II) the institution has a cohort
2 default rate, as so defined, in dollar
3 volume that places the institution in
4 the highest 1 percent of institutions
5 participating in programs authorized
6 under this title.

7 “(iii) In the case of proprietary insti-
8 tutions of higher education, the institution
9 received more than 85 percent of the insti-
10 tution’s revenues from Federal funds, as
11 defined in subsection (a), during the 2
12 most recent years for which data is avail-
13 able.

14 “(iv) The institution is among the top
15 1 percent of institutions participating in
16 programs authorized under this title in
17 terms of numbers or rates of complaints
18 related to Federal student financial aid,
19 educational practices and services, or re-
20 cruiting and marketing practices, as re-
21 ported in the system for collecting and
22 tracking student complaints established
23 under subsection (e)(4).

24 “(v) As of the date of the determina-
25 tion, the institution is among the top 1

1 percent of institutions in terms of low
2 graduation rates of all institutions partici-
3 pating in programs authorized under this
4 title.

5 “(vi) The institution spends more
6 than 20 percent of the institution’s reve-
7 nues on recruiting and marketing activities
8 and executive compensation.

9 “(vii) The institution’s enrollment has
10 increased by more than 50 percent in 2
11 years or has more than doubled in 5 years.

12 “(viii) The institution has engaged in
13 default manipulation.

14 “(ix) In the period immediately fol-
15 lowing the cohort default rate period, the
16 institution’s loan defaults increase by 50
17 percent or more.

18 “(x) The institution is found to have
19 deficiencies, or compliance problems, under
20 this title, or is at significant risk of failing
21 to comply with applicable Federal or State
22 laws, by a relevant Federal agency or a rel-
23 evant State entity or agency, including the
24 Comptroller General of the United States.

1 “(xi) The institution has been put on
2 probation or show cause by its accrediting
3 agency.

4 “(xii) The institution or the institu-
5 tion’s executives have publically acknowl-
6 edged or disclosed that the institution is in
7 violation or noncompliance with any provi-
8 sion of this title.

9 “(B) PUBLICATION OF INSTITUTIONS RE-
10 VIEWED.—The Secretary shall—

11 “(i) post, on a publically available
12 website, the name of each institution of
13 higher education that is reviewed under
14 subparagraph (A);

15 “(ii) indicate, on such website, with
16 respect to each such institution, which of
17 the mandatory review criteria, outlined in
18 subparagraph (A), such institution met;
19 and

20 “(iii) indicate on the Department’s
21 College Navigator website the name of
22 each institution of higher education that is
23 reviewed under subparagraph (A).

24 “(C) INSTITUTIONAL DISCLOSURE OF RE-
25 VIEW.—Each institution of higher education

1 that is reviewed under subparagraph (A)
2 shall—

3 “(i) post on the home page of the in-
4 stitution’s website that the institution will
5 be subject to a mandatory program review
6 and why the institution is being reviewed
7 and shall maintain such posting and expla-
8 nation for 1 year or until the Department
9 has issued its final program review report
10 under subsection (c)(5)(C), whichever oc-
11 curs sooner;

12 “(ii) provide a clear, conspicuous dis-
13 closure of the information described in
14 clause (i) to students who inquire about
15 admission to the institution or submit an
16 application for admission to the institution
17 prior to the student signing an enrollment
18 agreement with the institution, for 1 year
19 or until the Department has issued its
20 final program review report under sub-
21 section (c)(5)(C), whichever occurs sooner;
22 and

23 “(iii) include the information de-
24 scribed in clause (i) on materials of accept-
25 ance or admission submitted to each stu-

1 dent before the student enrolls in the insti-
2 tution, for 1 year or until the Department
3 has issued its final program review report
4 under subsection (c)(5)(C), whichever oc-
5 curs sooner.

6 “(3) RISK-BASED REVIEWS.—

7 “(A) IN GENERAL.—The Secretary shall
8 use a risk-based approach to select on an an-
9 nual basis not less than 2 percent of institu-
10 tions of higher education participating in a pro-
11 gram authorized under this title that are not
12 reviewed under paragraph (2), for a program
13 review. This approach shall prioritize program
14 reviews of institutions that—

15 “(i) have received large increases in
16 funding under this title during the 5-year
17 period preceding the date of the determina-
18 tion;

19 “(ii) have a large proportion of overall
20 revenue from Federal funds, as defined in
21 subsection (a);

22 “(iii) have a significant fluctuation in
23 Federal Stafford Loan volume, Federal Di-
24 rect Stafford Loan volume, or Federal Pell
25 Grant award volume, or any combination

1 thereof, in the year for which the deter-
2 mination is made, compared to the year
3 prior to such year, that is not accounted
4 for by the changes in the Federal Stafford
5 Loan program, the Federal Direct Stafford
6 Loan program, or the Federal Pell Grant
7 program, or any combination thereof;

8 “(iv) have experienced sharp increases
9 in enrollment in absolute numbers or rate
10 of growth;

11 “(v) have high rates of defaults, rel-
12 ative to all other institutions of higher edu-
13 cation participating in a program author-
14 ized under this title, for loans issued under
15 this title over the lifetime of the loans;

16 “(vi) have high default rates, in dollar
17 volume, or high cohort default rates for
18 loans issued under this title;

19 “(vii) have a student default risk that
20 is more than 2 times the national average
21 student default risk for all institutions par-
22 ticipating in a program under this title;

23 “(viii) have a high proportion or high
24 rate of complaints related to Federal stu-
25 dent financial aid, educational practices

1 and services, or recruiting and marketing
2 practices, as reported in the system for col-
3 lecting and tracking student complaints es-
4 tablished under subsection (e)(4);

5 “(ix) have extremely low graduation
6 rates;

7 “(x) are in poor financial health ac-
8 cording to financial responsibility stand-
9 ards described in section 498(c);

10 “(xi) are spending more than 15 per-
11 cent of the institution’s revenues on re-
12 cruiting and marketing activities and exec-
13 utive compensation;

14 “(xii) in the case of proprietary insti-
15 tutions of higher education, have large
16 profit margins and profit growth;

17 “(xiii) have been put on notice or
18 warning by its accrediting agency;

19 “(xiv) in the case of proprietary insti-
20 tutions of higher education, have experi-
21 enced a change in ownership of the institu-
22 tion, including a buyout;

23 “(xv) in the case of proprietary insti-
24 tutions of higher education, have acquired
25 a nonprofit institution of higher education

1 at any point during the 1-year period pre-
2 ceding the date of the determination; or

3 “(xvi) were for-profit institutions of
4 higher education and have become non-
5 profit institutions of higher education at
6 any time during the 1-year period pre-
7 ceding the date of the determination.

8 “(B) CHANGE IN OWNERSHIP.—In this
9 paragraph, the term ‘change in ownership’
10 means 1 person or more than 1 person acting
11 as a group, acquiring an ownership interest or
12 a majority of the stock of the institution that,
13 in the aggregate, constitutes more than 50 per-
14 cent of the total fair market value or total vot-
15 ing power, as applicable, of such institution.

16 “(4) ADDITIONAL PROGRAM REVIEWS.—The
17 Secretary may also conduct additional program re-
18 views of institutions of higher education partici-
19 pating in a program authorized under this title that
20 are not determined to pose a significant risk of fail-
21 ure to comply with provisions of this title.

22 “(5) PUBLIC DISCLOSURE OF VIOLATIONS.—
23 The Secretary shall—

24 “(A) post, on a publically available website,
25 the name of each institution of higher education

1 that is found to have violated a provision of this
2 title knowingly and willfully or with gross neg-
3 ligence;

4 “(B) indicate on such website, with respect
5 to each such institution, which of the provisions
6 of this title the institution violated; and

7 “(C) maintain such posting until the date
8 the institution of higher education rectifies the
9 violation or the date that is 1 year after the
10 date the Secretary issues the final program re-
11 view report under subsection (e)(5)(C) with re-
12 spect to such institution, whichever date is
13 later.

14 “(6) INSTITUTIONAL DISCLOSURE OF VIOLA-
15 TIONS.—Each institution of higher education that is
16 found to have violated a provision of this title know-
17 ingly and willfully or with gross negligence shall—

18 “(A) not later than 15 days after the date
19 of issuance of the final program review report
20 containing the finding, post on the home page
21 of the institution’s website that the institution
22 has been found to have violated a provision of
23 this title knowingly and willfully or with gross
24 negligence, including the provision the institu-
25 tion was found to have violated;

1 “(B) maintain such posting until the date
2 the institution rectifies the violation or the date
3 that is 1 year after the date the Secretary
4 issues the final program review report under
5 subsection (c)(5)(C) with respect to such insti-
6 tution, whichever date is later; and

7 “(C) include the information described in
8 subparagraph (A) on materials of acceptance or
9 admission submitted to each student before the
10 student enrolls in the institution until the date
11 the institution rectifies the violation or the date
12 that is 1 year after the date the Secretary
13 issues the final program review report under
14 subsection (c)(5)(C) with respect to such insti-
15 tution, whichever date is later.

16 “(c) CHARACTERISTICS OF PROGRAM REVIEWS.—

17 “(1) NOTICE.—The Secretary may give not
18 more than 72 hours notice to an institution of high-
19 er education that will undergo a program review
20 pursuant to subsection (b) of such review.

21 “(2) SHARING OF INFORMATION.—Without
22 sharing personally identifiable information and in
23 accordance with section 444 of the General Edu-
24 cation Provisions Act (20 U.S.C. 1232g, commonly
25 known as the ‘Family Educational Rights and Pri-

1 vacy Act of 1974'), the Secretary shall share all final
2 program review results conducted under this section
3 with relevant Federal agencies and relevant State
4 entities or agencies, and appropriate accrediting
5 agencies and associations, to enable such agencies,
6 entities, and associations to determine the eligibility
7 of institutions for funds or accreditation.

8 “(3) COORDINATION OF REVIEWS.—To the ex-
9 tent practicable, the Secretary shall coordinate pro-
10 gram reviews conducted under this section with
11 other reviews and audits conducted by the Depart-
12 ment, and with relevant Federal agencies and rel-
13 evant State entities or agencies.

14 “(4) CONDUCT OF REVIEWS.—When conducting
15 program reviews under this section, the Secretary
16 shall assess the institution of higher education’s
17 compliance with the provisions of this title. The pro-
18 gram reviews shall include, at a minimum, the fol-
19 lowing:

20 “(A) With regard to the institutional infor-
21 mation, the Secretary shall assess financial ca-
22 pability, administrative capability, and program
23 integrity, including whether the institution—

24 “(i) knowingly and willfully misused
25 Federal student aid from any source;

1 “(ii) violated section 487(a)(20);

2 “(iii) engaged in substantial misrepre-
3 sentation of the nature of its educational
4 program, its financial charges, or the em-
5 ployability of its graduates; or

6 “(iv) violated the Department’s pro-
7 gram integrity regulations.

8 “(B) With regard to student information,
9 the Secretary shall examine—

10 “(i) graduation rates compared with
11 all other institutions participating in a pro-
12 gram authorized under this title;

13 “(ii) student complaints, including
14 interviews with current and former stu-
15 dents, faculty and staff, and accrediting
16 agencies; and

17 “(iii) information from the complaint
18 data system established under subsection
19 (e)(4).

20 “(5) ADMINISTRATIVE PROCESS.—

21 “(A) TRAINING.—The Secretary shall pro-
22 vide training to personnel of the Department
23 designed to improve the quality of financial and
24 compliance audits and program reviews con-
25 ducted under this section, including instruction

1 about appropriately and effectively conducting
2 such audits and reviews for institutions of high-
3 er education from different sectors of higher
4 education. In providing the training, the Sec-
5 retary shall not use funds appropriated to carry
6 out this title.

7 “(B) CARRYING OUT PROGRAM RE-
8 VIEWS.—In carrying out program reviews under
9 this section, the Secretary shall—

10 “(i) establish guidelines designed to
11 ensure uniformity of practice in the con-
12 duct of such reviews;

13 “(ii) make available to each institu-
14 tion of higher education participating in a
15 program authorized under this title com-
16 plete copies of all review guidelines and
17 procedures used in program reviews, except
18 that internal training materials for Depart-
19 ment staff related to identifying instances
20 of fraud, misrepresentation, or intentional
21 noncompliance shall not be disclosed;

22 “(iii) permit an institution of higher
23 education to correct or cure an administra-
24 tive, accounting, or recordkeeping error
25 within 90 days of the issuance of the final

1 program review report, if the error is not
2 part of a pattern of error and there is no
3 evidence of fraud or misconduct related to
4 the error;

5 “(iv) without sharing personally iden-
6 tifiable information and in accordance with
7 section 444 of the General Education Pro-
8 visions Act (20 U.S.C. 1232g, commonly
9 known as the ‘Family Educational Rights
10 and Privacy Act of 1974’), inform the rel-
11 evant Federal agencies and relevant State
12 entities or agencies, and accrediting agency
13 or association, whenever the Secretary
14 finds a violation of this title or sanctions
15 an institution of higher education under
16 this section, section 498, or section 432;
17 and

18 “(v) provide to an institution of high-
19 er education 90 calendar days to review
20 and respond to any program review report
21 and relevant materials related to the report
22 before any final program review report is
23 issued.

24 “(C) FINAL PROGRAM REVIEW REPORT.—

1 “(i) IN GENERAL.—Not later than
2 180 calendar days after issuing a program
3 review report under this section, the Sec-
4 retary shall review and consider an institu-
5 tion of higher education’s response, and
6 issue a final program review report or
7 audit determination. The final report shall
8 include—

9 “(I) a written statement address-
10 ing the institution of higher edu-
11 cation’s response;

12 “(II) a written statement of the
13 basis for such report or determina-
14 tion; and

15 “(III) a copy of the institution’s
16 response.

17 “(ii) CONFIDENTIALITY.—The Sec-
18 retary shall maintain and preserve at all
19 times the confidentiality of any program
20 review report until a final program review
21 report is issued, other than to inform the
22 relevant Federal agencies and relevant
23 State entities or agencies, and accrediting
24 agency or association, as required under
25 this section.

1 “(iii) REPORTS DISCLOSED TO THE
2 INSTITUTION.—The Secretary shall
3 promptly disclose each program review re-
4 port to the institution of higher education
5 under review.

6 “(iv) REMOVAL OF PERSONALLY
7 IDENTIFIABLE INFORMATION.—Any per-
8 sonally identifiable information from the
9 education records of students shall be re-
10 moved from any program review report be-
11 fore the report is shared with any relevant
12 Federal agency, State entity or agency, or
13 accrediting agency or association.

14 “(D) FOLLOW-UP REVIEWS AFTER VIOLA-
15 TIONS.—The Secretary shall conduct follow-up
16 reviews of each institution of higher education
17 that has been found in violation of a provision
18 of this title not later than 1 year after the date
19 of such finding. Such follow-up reviews may
20 only assess whether the institution of higher
21 education has corrected violations found in a
22 previous program review.

23 “(d) SANCTIONS.—

24 “(1) IN GENERAL.—The Secretary shall imme-
25 diately sanction any institution of higher education

1 that, after the full program review process under
2 this section, is found to have violated a provision of
3 this title.

4 “(2) AVAILABLE SANCTIONS.—

5 “(A) CRITERIA.—

6 “(i) IN GENERAL.—Not later than
7 180 days after the date of enactment of
8 the Students First Act of 2012, the Sec-
9 retary shall establish in regulations, with-
10 out regard to sections 482(c) and 492, sec-
11 tion 437 of the General Education Provi-
12 sions Act, and section 553 of title 5,
13 United States Code, a comprehensive
14 methodology and criteria for sanctions
15 against institutions of higher education
16 that, after the full program review process
17 under this section, are found to have vio-
18 lated a provision of this title.

19 “(ii) PARAMETERS OF SANCTIONS.—

20 The sanctions described in clause (i)
21 shall—

22 “(I) be in addition to other sanc-
23 tions available to the Secretary under
24 this Act; and

25 “(II) take into account—

1 “(aa) the severity of the vio-
2 lation of this title;

3 “(bb) whether the institution
4 violated this title knowingly and
5 willfully or with gross negligence;

6 “(cc) whether the violation
7 represents a persistent and docu-
8 mented pattern of violating this
9 title; and

10 “(dd) the extent of the harm
11 or potential harm that such viola-
12 tions caused or had the potential
13 to cause upon students and bor-
14 rowers.

15 “(B) SANCTIONS FOR FAILURE TO COMPLY
16 WITH THE PROGRAM REVIEW PROCESS.—The
17 Secretary may sanction an institution that fails
18 to fully comply with the program review process
19 described in this section, including the reporting
20 requirements described in paragraphs (2)(C)
21 and (6) of subsection (b).

22 “(C) WAIVER.—The Secretary may waive
23 sanctions described in subparagraph (A) with
24 respect to an institution that has committed a
25 minor violation of a provision of this title if—

1 “(i) the violation was not committed
2 knowingly and willfully or with gross neg-
3 ligence; and

4 “(ii) the violation has been rectified
5 by such institution not later than 60 days
6 after publication of the institution’s final
7 program review report.

8 “(3) REVOCATION OF TITLE IV ELIGIBILITY.—
9 Notwithstanding section 487(d)(2), the Secretary
10 shall revoke the eligibility to participate in student
11 aid programs under this title of an institution of
12 higher education that, after undergoing a program
13 review, is determined to have—

14 “(A) knowingly and willfully misused Fed-
15 eral student aid from any source;

16 “(B) violated section 487(a)(20);

17 “(C) engaged in substantial misrepresenta-
18 tion of the nature of its educational program,
19 its financial charges, or the employability of its
20 graduates; or

21 “(D) violated the Department’s program
22 integrity regulations.

23 “(4) SANCTIONS FOR OFFICERS OF INSTITU-
24 TIONS.—

1 “(A) OFFICER.—In this paragraph, the
2 term ‘officer of an institution of higher edu-
3 cation’ includes the President, Chief Executive
4 Officer, and Chief Financial Officer of an insti-
5 tution of higher education.

6 “(B) SANCTIONS.—The Secretary shall ex-
7 tend sanctions, including financial penalties, to
8 an officer of an institution of higher education
9 that participates in a program under this title
10 that knowingly and willfully or with gross neg-
11 ligence, violates a provision of this title. Such
12 sanctions shall include—

13 “(i) prohibiting an officer of an insti-
14 tution of higher education that has know-
15 ingly and willfully or with gross negligence
16 violated a provision of this title from being
17 employed by such institution or another in-
18 stitution of higher education that partici-
19 pates in a program under this title for a
20 period of 5 years from the date of the de-
21 termination of the violation; and

22 “(ii) assessing a financial penalty
23 against an officer of an institution of high-
24 er education that has knowingly and will-
25 fully or with gross negligence violated a

1 provision of this title that is equal to the
2 officer's annual compensation for the year
3 for which the determination is made.

4 “(5) FINANCIAL PENALTIES FOR INSTITU-
5 TIONS.—

6 “(A) IN GENERAL.—With respect to each
7 institution of higher education for which the
8 Secretary has revoked eligibility to participate
9 in student aid programs under this title or has
10 determined to have violated this title knowingly
11 and willfully or with gross negligence, the Sec-
12 retary shall assign penalties of not less than 20
13 percent of the amount of funds received by the
14 institution from Federal funds, as defined in
15 subsection (a), for the last year for which data
16 are available, which, notwithstanding any other
17 provision of law, shall be retained by the Sec-
18 retary and placed in the Student Relief Fund
19 established by the Secretary under subpara-
20 graph (C).

21 “(B) PENALTIES FOR INSTITUTIONS THAT
22 DO NOT HAVE TITLE IV ELIGIBILITY RE-
23 VOKED.—Notwithstanding any other provision
24 of law, with respect to each institution of higher
25 education that has violated a provision of this

1 title and for which the Secretary has deter-
2 mined has harmed a student or the taxpayers
3 but is not an institution described in subpara-
4 graph (A), the Secretary shall assign penalties
5 of not more than \$100,000, which shall be re-
6 tained by the Secretary and placed in the Stu-
7 dent Relief Fund established by the Secretary
8 under subparagraph (C).

9 “(C) STUDENT RELIEF FUND.—

10 “(i) ESTABLISHMENT.—The Secretary
11 shall establish a Student Relief Fund that
12 shall be used, subject to the availability of
13 funds, to provide financial relief, in a man-
14 ner determined by the Secretary and which
15 may include relief such as tuition reim-
16 bursement or full or partial loan forgive-
17 ness, to any student enrolled in an institu-
18 tion of higher education that has failed to
19 comply with the standards and agreements
20 created for program participation eligibility
21 under section 487 or has been sanctioned
22 under this subsection.

23 “(ii) AUTHORIZATION OF APPROPRIA-
24 TIONS.—In addition to funds derived from
25 financial penalties assessed pursuant to

1 subparagraph (A), there are authorized to
2 be appropriated such sums as may be nec-
3 essary to carry out this subparagraph.

4 “(6) LIFTING OF SANCTIONS.—Notwithstanding
5 any other provision of this title, an institution of
6 higher education that has been sanctioned by the
7 Secretary under this subsection or any other provi-
8 sion of this title may not have such sanctions lifted
9 until the Secretary has conducted a subsequent fol-
10 low-up review and found the institution to be in
11 compliance with this title.

12 “(e) DATA COLLECTION AND COMPLAINT TRACK-
13 ING.—

14 “(1) ESTABLISHMENT OF DATABASE.—The
15 Secretary shall establish and operate a central data-
16 base of information on institutional accreditation,
17 eligibility, and certification that includes all relevant
18 information—

19 “(A) available to the Department;

20 “(B) made available to the Secretary by
21 the heads of relevant Federal agencies;

22 “(C) from accrediting agencies or associa-
23 tions; and

24 “(D) available from a guaranty agency.

1 “(2) DEVELOPMENT OF PLAN.—In order to
2 carry out the responsibilities described in paragraph
3 (1), the Secretary shall develop a plan to carry out
4 and collect all relevant information.

5 “(3) INFORMATION AVAILABLE.—The Secretary
6 shall make the information obtained pursuant to
7 paragraph (1) readily available to the relevant Fed-
8 eral agencies and relevant State entities or agencies,
9 all institutions of higher education, guaranty agen-
10 cies, States, and other organizations participating in
11 the programs authorized under this title.

12 “(4) COMPLAINT TRACKING.—

13 “(A) ESTABLISHMENT OF COMPLAINT
14 TRACKING SYSTEM.—The Secretary shall estab-
15 lish a single, toll-free telephone number, a
16 website, and a database, to facilitate the cen-
17 tralized collection of, monitoring of, and re-
18 sponse to student and staff complaints regard-
19 ing Federal student financial aid, educational
20 practices and services, and recruiting and mar-
21 keting practices.

22 “(B) ESTABLISHMENT OF COMPLAINT
23 TRACKING OFFICE.—The Secretary shall estab-
24 lish within the Department an office whose
25 functions shall include establishing, admin-

1 istering, and disseminating widely information
2 about the complaint tracking system established
3 under subparagraph (A).

4 “(C) SHARING INFORMATION WITH FED-
5 ERAL AGENCIES.—The Secretary shall coordi-
6 nate with relevant Federal agencies to collect
7 complaints from and route complaints to such
8 agencies, as appropriate, with respect to edu-
9 cational products or services.

10 “(D) PARTICIPATION OF INSTITUTIONS.—

11 “(i) IN GENERAL.—The Secretary
12 shall communicate with an institution of
13 higher education about complaints received
14 through the complaint tracking system
15 with respect to such institution.

16 “(ii) SUMMARY.—Without sharing any
17 personally identifiable information and in
18 accordance with section 444 of the General
19 Education Provisions Act (20 U.S.C.
20 1232g, commonly known as the ‘Family
21 Educational Rights and Privacy Act of
22 1974’), the Secretary shall provide a sum-
23 mary to an institution of higher education,
24 at least once a year, of the numbers and

1 types of complaints that have been filed
2 with respect to such institution.

3 “(iii) SHARING INDIVIDUAL COM-
4 PLAINTS.—Notwithstanding any other pro-
5 vision of law, the Secretary may share a
6 complaint and the information of the indi-
7 vidual submitting the complaint with the
8 institution against which the complaint has
9 been filed, if such individual who has filed
10 the complaint affirms that the Secretary
11 may share that individual’s personal infor-
12 mation and complaint with the institution.

13 “(iv) RESPONSES FROM INSTITU-
14 TIONS.—The Secretary shall—

15 “(I) provide an institution with
16 90 days to respond to a complaint
17 filed with respect to the institution
18 with the complaint tracking system
19 established under subparagraph (A);
20 and

21 “(II) consider such response and
22 any resolution of the complaint when
23 utilizing the information from the
24 complaint during a program review.

1 “(5) DATA SHARING REQUIRED.—The Sec-
2 retary shall share consumer complaint information
3 with, and collect such information from, relevant
4 Federal agencies and relevant State entities or agen-
5 cies regarding educational products or services, in
6 accordance with applicable data privacy laws and
7 regulations, except that any personally identifiable
8 information from the education records of students
9 shall not be shared.

10 “(6) TRANSPARENCY.—The Secretary shall
11 publish on a publically accessible website information
12 and analyses about complaint numbers, complaint
13 types, and, where applicable, information about the
14 resolution of complaints collected under this sub-
15 section.”.

16 (b) PROGRAM PARTICIPATION AGREEMENTS.—Sec-
17 tion 487(a) of the Higher Education Act of 1965 (20
18 U.S.C. 1094(a)) is amended by adding at the end the fol-
19 lowing:

20 “(30) The President, Chief Executive Officer,
21 and Chief Financial Officer of the institution shall
22 each—

23 “(A) personally sign each program partici-
24 pation agreement for the institution; and

1 “(B) be liable for the institution’s compli-
2 ance with such agreement and with the provi-
3 sions of this title, as provided in section
4 498A(d)(4).”.

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