

CAMPUS PREVENTION AND RECOVERY SERVICES FOR  
STUDENTS ACT OF 2022

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JUNE 23, 2022.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed  
—————

Mr. SCOTT of Virginia, from the Committee on Education and  
Labor, submitted the following

R E P O R T

[To accompany H.R. 6493]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and Labor, to whom was referred the bill (H.R. 6493) to amend the Higher Education Act of 1965 to prevent certain alcohol and substance misuse, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Campus Prevention and Recovery Services for Students Act of 2022”.

**SEC. 2. ALCOHOL AND SUBSTANCE MISUSE PREVENTION.**

Section 120 of the Higher Education Act of 1965 (20 U.S.C. 1011i) is amended—

(1) in the section heading, by striking “**DRUG AND ALCOHOL ABUSE**” and inserting “**ALCOHOL AND SUBSTANCE MISUSE**”;

(2) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking “a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees that,” and inserting “an evidence-based program to prevent alcohol and substance misuse by students and employees that,”;

(B) by amending paragraph (1)(D) to read as follows:

“(D) a description of any alcohol or substance misuse counseling, treatment, rehabilitation, recovery, re-entry, or recovery support programs provided by the institution (including in partnership with a community-based organization) that are available to employees or students; and”;

(C) in paragraph (1)(E), by striking “that the institution will impose” and inserting “of the policies of the institution regarding”;

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by striking “and” at the end of subparagraph (A);

(ii) in subparagraph (B), by striking the period and inserting “; and”;

and

(iii) by adding at the end the following:

“(C) compliance assistance to assist institutions in complying with the requirements of this section.”;

(B) by redesignating paragraph (2) as paragraph (4); and

(C) by inserting after paragraph (1) the following:

“(2) **INTERAGENCY AGREEMENT.**—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall enter into an interagency agreement with the Secretary of Health and Human Services to—

“(A) develop best practices that inform criteria which satisfy the requirement under subsection (a) that an institution of higher education has adopted and has implemented an evidence-based program described in such subsection;

“(B) establish a process for disseminating the best practices for adopting and implementing such an evidence-based program; and

“(C) establish a process that promotes coordination and collaboration between institutions of higher education and the respective State agencies that administer the Substance Abuse Prevention and Treatment Block Grants pursuant to subpart II of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x–21).

“(3) **GUIDANCE.**—Not later than 1 year after the date of the enactment of this paragraph, the Secretary shall, in coordination with the Secretary of Health and Human Services, issue guidance with respect to the criteria described in paragraph (2)(A).”; and

(4) in subsection (e)—

(A) in the subsection heading, by striking “**DRUG ABUSE**” in the heading and inserting “**SUBSTANCE MISUSE**”;

(B) in paragraph (1)—

(i) by striking “other organizations” and inserting “community-based organizations that partner with institutions of higher education”;

(ii) by striking “programs of prevention, and education (including treatment-referral) to reduce and eliminate the illegal use of drugs and alcohol and the violence associated with such use” and inserting “evidence-based programs of alcohol and substance misuse prevention and education (including programs to improve access to treatment, referral for treatment services, or crisis intervention services) to eliminate illegal substance use, decrease substance misuse, and improve public health and safety”; and

(iii) by striking “alcohol and drug abuse” and inserting “substance use disorder”;

(C) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively; and

(D) by inserting after paragraph (1) the following:

“(2) ADDITIONAL USES.—In addition to the activities described in paragraph (1), a grant or contract awarded under paragraph (1) may be used to carry out one or more of the following evidence-based programs or activities:

“(A) Providing programs for recovery support services, and peer-to-peer support services and counseling for students with a substance use disorder.

“(B) Promoting integration and collaboration in campus-based health services between primary care, substance use disorder services, and mental health services.

“(C) Promoting integrated care services for students related to screening, diagnosis, prevention, and treatment of mental, behavioral, and substance use disorders.

“(D) Providing re-entry assistance for students on academic probation due to their substance use disorder.

“(E) Preventing fatal and nonfatal overdoses, including restoring existing mental health and substance use disorder services after a natural disaster or public health emergency declared by the Secretary of Health and Human Services under section 319 of the Public Health Service Act (42 U.S.C. 247d).

“(F) Providing education to students, faculty, or other personnel on—

“(i) recognizing the signs and symptoms of substance use disorder, and how to engage and support a person in a crisis situation;

“(ii) resources available in the community, within the institution of higher education, and other relevant resources for individuals with a substance use disorder; and

“(iii) safely de-escalating crisis situations involving individuals with a substance use disorder.”; and

(E) by amending paragraph (6), as redesignated by subparagraph (C), to read as follows:

“(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$15,000,000 for fiscal year 2023 and each of the 5 succeeding fiscal years.”.

#### SEC. 3. PROGRAM PARTICIPATION AGREEMENTS.

Section 487(a)(10) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)(10)) is amended—

(1) by striking “(10)” and inserting “(10)(A)”;

(2) by striking “a drug abuse prevention program” and inserting “an alcohol and substance misuse prevention program in accordance with section 120”; and

(3) by adding at the end the following:

“(B) The institution shall be considered in compliance with the requirements of subparagraph (A) unless there is a showing that the institution knowing and willfully did not implement a prevention program described in such subparagraph.”.

#### SEC. 4. REPORT.

The Secretary of Education shall report to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate on the efforts of the Secretary carried out under the amendments made by this Act, and best practices from institutions receiving a grant under section 120(e) of the Higher Education Act of 1965 (20 U.S.C. 1011i(e)), as amended by section 2 of this Act—

(1) not later than one year after the date of enactment of this Act; and

(2) three years after the date of enactment of this Act.

#### SEC. 5. APPLICABILITY.

The amendments made by sections 2(2) and 3 shall apply to institutions of higher education beginning on the date that is 2 years after the date of the enactment of this Act.

### PURPOSE AND SUMMARY

The purpose of H.R. 6493, the bipartisan *Campus Prevention and Recovery Services for Students Act of 2022*, is to improve and update provisions of the *Higher Education Act of 1965* related to alcohol and substance abuse prevention. The amendments outlined in H.R. 6493 will better support students struggling with substance use disorder (SUD) and ensure that alcohol and drug misuse pre-

vention and recovery efforts mandated by federal law are focused on evidence-based practices.

Millions of Americans—including college students—struggle with substance use disorder.<sup>1</sup> Providing tools to allow them to safely recover is paramount to improving the health and wellbeing of communities. Building off decades of research on SUD, H.R. 6493 better aligns statutory requirements regarding campus-based substance misuse prevention efforts with proven approaches. H.R. 6493 requires institutions of higher education (IHEs) receiving federal funding to adopt and implement an evidence-based program to prevent campus alcohol and substance misuse by students and employees. The legislation also requires the Secretary of Education (Secretary) to coordinate with the Secretary of Health and Human Services to develop and promote best practices for IHEs to support the implementation of these evidence-based programs.

The bipartisan *Campus Prevention and Recovery Services for Students Act of 2022* is supported by the National Council for Mental Wellbeing and the Trust for America’s Health.

#### COMMITTEE ACTION

##### 116TH CONGRESS

On June 28, 2019, Rep. David Trone (D–MD–06) introduced H.R. 3591, the *Campus Prevention and Recovery Services for Students Act of 2019*, with Reps. Dusty Johnson (R–SD–AL), Chris Pappas (D–NH–01), John Joyce (R–PA–03), Lucy McBath (D–GA–06), Michael Guest (R–MS–03) as original cosponsors. The bill was referred solely to the Committee on Education and Labor.

On October 15, 2019, Chairman Robert C. “Bobby” Scott (D–VA–03) introduced H.R. 4674, the *College Affordability Act (CAA)*, a bill to reauthorize the *Higher Education Act of 1965*. On October 29, 2019, Committee met in legislative session to mark up CAA. At that markup, an Amendment in the Nature of a Substitute (ANS) was offered to H.R. 4674, which included H.R. 3591. The ANS was adopted by a voice vote and on October 31, 2019. The Committee voted to report CAA to the House favorably with the ANS and other approved amendments by a vote of 28–22.

##### 117TH CONGRESS

On April 15, 2021, the Subcommittee on Health, Employment, Labor, and Pensions (HELP Subcommittee) held a hearing titled “*Meeting the Moment: Improving Access to Behavioral and Mental Health Care*” to examine barriers to access for behavioral health care, particularly limited coverage of mental health and substance use disorder treatment and the importance of mental health parity laws. The Subcommittee heard testimony from: Dr. Brian Smedley, Chief of Psychology in the Public Interest, American Psychological Association, Washington, DC; Dr. Christine Yu Moutier, Chief Medical Officer, American Foundation for Suicide Prevention, New York, NY; Mr. James Gelfand, Senior Vice President, Health Policy, The ERISA Industry Committee, Washington, DC; and Dr. Meiram Bendat, Founder, Psych-Appeal, Santa Barbara, CA.

<sup>1</sup>See e.g., John F. Kelly et al., *Prevalence and pathways of recovery from drug and alcohol problems in the United States population: Implications for practice, research, and policy*, 181 *Drug & Alcohol Dependence*, 162, 166 (2017), <https://doi.org/10.1016/j.drugalcdep.2017.09.028>.

On January 25, 2022, Rep. Teresa Leger Fernández (D–NM–03) introduced H.R. 6493, the *Campus Prevention and Recovery Services for Students Act of 2022*, with Reps. Dusty Johnson, Trone, Pappas, John Joyce, McBath, and Guest as original cosponsors. The bill was referred solely to the Committee on Education and Labor.

On May 18, 2022, the Committee considered H.R. 6493 in legislative session and reported it favorably, as amended to the House of Representatives by a voice vote.

The Committee considered the following amendments to H.R. 6493:

- Rep. Leger Fernández offered an ANS that:
  - Altered the interagency agreement to have the Secretary of Health and Human Services develop the best practices which inform the criteria that satisfy the Title IV eligibility requirements;
  - Required the Secretary to issue a report to Congress on efforts and best practices from institutions receiving the alcohol and substance misuse prevention grants;
  - Allowed grant funds to be used to restore mental health and substance misuse prevention programs during public health emergencies and natural disasters; and
  - Clarified that institutions of higher education will not be found out of compliance with requirements unless they knowingly and willfully did not adopt and implement a prevention program.

## COMMITTEE VIEWS

### BEHAVIORAL HEALTH CHALLENGES FACING COLLEGE STUDENTS

Drug and alcohol misuse, addiction, and abuse, now commonly referred to as substance abuse disorders (SUDs), remain major behavioral health challenges in the United States.<sup>2</sup> The country is currently in the fifth year of an opioid public health emergency, and national statistics show that instances of substance use and abuse, already too common, have increased during the COVID–19 pandemic.<sup>3</sup> Behavioral health needs—in part exacerbated by COVID–19—are rising and demand for services is rising.<sup>4</sup> During the 2021 HELP Subcommittee hearing titled “*Meeting the Moment: Improving Access to Behavioral and Mental Health Care*”, Rep. DeSaulnier highlighted the need to address mental health concerns with evidence-based practices by saying:

Our communities, particularly underserved communities, have been left to deal with the lasting and potentially fatal mental health consequences on this pandemic on their own. This is in spite of exponential research and knowledge about behavioral health and substance abuse

<sup>2</sup>See e.g., Substance Abuse & Mental Health Services Administration, *Key Substance Use & Mental Health Indicators in the United States: Results from the 2020 National Survey on Drug Use & Health 3* (Oct. 2021).

<sup>3</sup>*Id.* at 5.

<sup>4</sup>Melissa Ezarik, *Students Struggle but Don’t Seek Colleges’ Help*, Inside Higher Ed, (April 14, 2021), <https://www.insidehighered.com/news/2021/04/14/students-struggling-not-seeking-campus-mental-health-support>.

and evidence-based research that would help Americans if we provide these services.<sup>5</sup>

The Committee recognizes that behavioral health challenges like SUDs are a rising problem with college students. For many students living away from home for the first time, college is a time of freedom and independence. For older students dealing with stressors like work and family, the responsibilities of college are heaped onto an already full plate. Students, regardless of their residency or attendance status commonly experience social anxiety, academic stress, and overwhelming amounts of pressure during college.<sup>6</sup> Too many of these students turn to alcohol and substances to cope with the challenges of college.<sup>7</sup>

Like the rest of the country, college campuses have not been immune to increased prevalence of opioid use disorder as well as other SUDs. Research in 2019 found that college students were particularly vulnerable to opioid misuse; according to the National Survey on Drug Use and Health, young adults ages 18 to 25 reported the highest previous year opioid use prevalence of all age groups.<sup>8</sup> And the COVID-19 pandemic has also had disproportionate effect on the behavioral health of college students. Elevated anxiety among college students has persisted throughout the pandemic and led to higher rates of moderate-to-heavy drinking, sleep impairment, and depression.<sup>9</sup> While college students experiencing more pandemic-related mental distress did not consume more substances than their less distressed counterparts, college students affected by substance misuse and mental distress were more likely to increase their alcohol consumption to cope with pandemic-related trauma.<sup>10</sup>

Unfortunately, high-quality mental health and substance use disorder treatment services remain out of reach for many students. Since the start of the pandemic, campus counseling centers have responded to an increased demand for student mental health services with limited funding, staff, and resources.<sup>11</sup> In a campus-wide survey conducted by the Pennsylvania State University, about 94 percent of student seeking mental health services reported that COVID-19 has negatively (72 percent), motivation or focus (68 percent), loneliness or isolation (67 percent), and academics (66 per-

<sup>5</sup> *Meeting the Moment: Improving Access to Behavioral and Mental Health Care Before the Subcomm. on Health, Education, Labor & Pensions of the H. Comm. on Education & Labor*, 117th Cong. (Apr. 15, 2021) (statement of Mark DeSaulnier, Chairman of the Subcommittee).

<sup>6</sup> Andy Rosen, *How Social Anxiety Impacts Higher Education and Career Choices*, National Social Anxiety Center (July 14, 2018), <https://nationalsocialanxietycenter.com/2018/07/14/social-anxiety-impacts-higher-education-career-choices/>; American Institute of Stress, *Stress in College Students*, (2022), <https://www.stress.org/college-students#:~:text=Stress%20was%20ranked%20fourth%20by,family%20issues%2C%20and%20relationship%20problems.>

<sup>7</sup> Substance Abuse & Mental Health Services Administration, *Talking with Your College-Bound Young Adult About Alcohol*, HHS Pub SMA-18-4897, (2018), <https://store.samhsa.gov/sites/default/files/d7/priv/sma18-4897.pdf>.

<sup>8</sup> Justine Welsh, et al., *Substance Use Among College Students*, 17 *Focus: The Journal of Lifelong Learning in Psychiatry* No. 2, 118 (Spring, 2019), [https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6527004/#:~:text=The%20risk%20for%20opioid%20use,a%20low%20GPA%20\(25\).](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6527004/#:~:text=The%20risk%20for%20opioid%20use,a%20low%20GPA%20(25).)

<sup>9</sup> Margo Hurlocker et al., *Mental Health Risk Profiles and Related Substance Use During Coronavirus Pandemic Among College Students Who Use Substances*, *Int'l. J. of Mental Health & Addiction* 8, 13-14 (March 28, 2022); Hans Oh et al., *Stressors experienced during the COVID-19 pandemic and substance use among US college students*, 1 *Drug and Alcohol Dependence Reports*, 4-5 (Nov. 2021).

<sup>10</sup> Hurlocker, *supra* note 9, at 13-14.

<sup>11</sup> Ezarik, *supra* note 4.

cent) as the most frequently affected areas.<sup>12</sup> Even as student need for high-quality behavioral health care continues to increase, lack of access to resources remains the primary barrier to receiving care for students on campus.<sup>13</sup> It is against this backdrop the Committee considered H.R. 6493.

HEA SUBSTANCE MISUSE PREVENTION PROGRAM REQUIREMENT FOR  
IHES

Under current law, section 120 of the *Higher Education Act of 1965* (HEA) requires institutions of higher education (IHEs) to adopt alcohol and substance misuse prevention programs in order to participate in federal student aid programs (e.g., Direct Loans, Federal Work Study, Pell Grants) or to receive funds or any other federal financial assistance from any federal program.<sup>14</sup> IHEs have a responsibility to support students and provide resources to address students' use of alcohol and substances. Failure to operate a Drug and Alcohol Prevention Program may result in a range of actions by the Department, from providing technical assistance to help such institution address shortfalls up to sanctions against the institution, including the repayment of any or all title IV Federal assistance received while in violation of the requirement.<sup>15</sup>

The Drug and Alcohol Prevention Program requirement since has not undergone major revision since the passage of the *Higher Education Amendments of 1986*.<sup>16</sup> That reauthorization of HEA was the first time the law included a requirement (in section 487) that an IHE must provide an assurance it maintained a Drug and Alcohol Prevention program as part of its agreement with the Department to participate in the federal student aid programs authorized under title IV.<sup>17</sup> Originally referred to as the Drug Abuse Program, the provision requiring IHE compliance to receive title IV aid was incorporated into the reauthorization during conference negotiations at the request of Rep. Thomas Coleman (R-MO-06), a conferee.<sup>18</sup>

There are two distinct characteristics of this requirement that speak to the time at which section 487 was revised to require participation in section 120. First, the inclusion of the Drug Abuse Program assurance reflects a larger government push to combat drug abuse in the 1980s.<sup>19</sup> The rising popularity of cocaine led to a demand from the public that drug abuse be addressed. According to CRS, by 1989, 27% of Americans felt drugs or drug abuse was the most important problem facing the country, compared to 1985

<sup>12</sup>Center for Collegiate Mental Health, The Pennsylvania State University, *Part 1 of 5: COVID-19 Impact on College Student Mental Health* (Feb. 2, 2021), [https://ccmh.psu.edu/index.php?option=com\\_dailyplanetblog&view=entry&year=2021&month=02&day=01&id=9:part-1-of-5-covid-19-s-impact-on-college-student-mental-health](https://ccmh.psu.edu/index.php?option=com_dailyplanetblog&view=entry&year=2021&month=02&day=01&id=9:part-1-of-5-covid-19-s-impact-on-college-student-mental-health).

<sup>13</sup>Wenhua Lu et al., *Examination of Young US Adults' Reasons for Not Seeking Mental Health Care for Depression, 2011–2019*, JAMA NETWORKOPEN (2022), <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2792128>.

<sup>14</sup>20 U.S.C. § 1011i, 1094.

<sup>15</sup>Letter from Robin Minor, FSA Chief Compliance Officer, Mark Love, FSA Audit Liaison, and Janie Funkhouser, OPE Audit Liaison to James W. Runcie, FSA Chief Operating Officer (March 14, 2012), U.S. Department of Education Office of Inspector General, <https://www2.ed.gov/about/offices/list/oig/aireports/i1310002.pdf>.

<sup>16</sup>Pub. L. 99–498.

<sup>17</sup>*Id.*

<sup>18</sup>Janet Hook, Student Loan, *Grant Provisions Settled: Conferees Reach Agreement on Higher Education Measure*, CQ WEEKLY, (September 13, 1986), <https://www.edweek.org/education/agreement-reached-on-college-student-aid-programs/1986/09>.

<sup>19</sup>*Id.*

when 2% gave this response.<sup>20</sup> As such, section 120 as written in 1986 focused heavily on requiring IHE drug abuse programs to convey to students sanctions, both legal and administrative, they could face if they used illicit drugs. Schools could meet the requirements of the law by telling students what would happen if they were caught using drugs and did not have to provide any treatment options.

Second, the conferees emphasized that the requirement that an IHE have a program did not permit the Secretary of Education to develop any new rules or regulations relating to the content of the Drug Abuse Program.<sup>21</sup> This reflects the desire to keep the emphasis on the program faced on deterrence, and not allow the Department to place more requirements on an IHE than those spelled out in the statute.

While the Committee recognizes the earlier efforts to curtail drug use, this approach did not eliminate drug usage among college students. With nearly 40 years of hindsight, and advancements in the science around addiction generally, and drug and alcohol abuse in particular, the Committee feels this is a prime opportunity to revise what actions an IHE should take to better serve the health of its students. The focus within substance misuse public policy has shifted away from punitive measures to developing opportunities to improve access to prevention and treatment services.<sup>22</sup> H.R. 6493 amends the Drug and Alcohol Prevention Program requirement and updates language to promote evidence-based prevention and recovery services.

#### ENSURING IHES PROVIDE EVIDENCE-BASED PREVENTION AND RECOVERY SUPPORT

Campus prevention and recovery programs are essential for preventing student and employee substance misuse and providing support for those with SUDs. Many schools now go over and above what is required in the law and employ evidence-based practices to reduce SUDs. For example, to fulfill the current Drug and Alcohol Prevention Program requirement, many IHEs provide an initial alcohol and substance misuse training for new students during orientation. But, the University of Massachusetts-Amherst (UMass Amherst) requires new students to complete a two-part online course that provides them with tools and information to healthily navigate alcohol and substance use on campus.<sup>23</sup> The school also provides additional programs, including BASICS, a program aimed at reducing risky behavior and generating discussion about the negative consequences of substance misuse with students. The Collegiate Recovery Community, another UMass Amherst program, provides a supportive living environment for students recovering from SUDs.<sup>24</sup> Together, these collaborative programs provide stu-

<sup>20</sup> Lisa N. Sacco, *Drug Enforcement in the United States: History, Policy, and Trends*, Congressional Research Service, (October 2, 2014).

<sup>21</sup> Hook, *supra* note 18.

<sup>22</sup> Office of the Surgeon General, *Facing Addiction in America: The Surgeon General's Report on Alcohol, Drugs, and Health*, (2016), <https://www.ncbi.nlm.nih.gov/books/NBK424861/>.

<sup>23</sup> Ctr. for Health Promotion, *AlcoholEdu*, U. of Mass. Amherst, <https://www.umass.edu/studentlife/health-safety/chp/alcooledu>.

<sup>24</sup> Ctr. for Health Promotion, *BASICS*, U. of Mass. Amherst, <https://www.umass.edu/studentlife/wellbeing-safety/center-health-promotion-chp/basics>; Ctr. for Health Promotion, *Collegiate Recovery Communities*, U. of Mass. Amherst, <https://www.umass.edu/studentlife/health-safety/chp/recovery>.

dents with comprehensive support from prevention to recovery. UMass Amherst has previously earned recognition as a national model for their prevention and recovery efforts.<sup>25</sup>

The Committee feels many IHEs need additional guidance to improve their campus-based drug abuse prevention services and treatment programs. H.R. 6493 ensures IHEs focus prevention and recovery services on evidence-based practices but also provides additional tools for IHEs to do so. Specifically, the legislation requires collaboration between the Secretary of Education and Secretary of Health and Human Services through an interagency agreement. Together, the Secretaries are tasked with supporting IHEs in developing evidence-based prevention and recovery programs that prevent alcohol and substance misuse and support students with SUDs. This guidance will provide IHEs with new, innovative, and evidence-based ways to support students impacted by SUDs and will give IHEs a clear framework for how they can meet the updated requirements under section 120. Incorporating evidence-based approaches into campus-based substance misuse prevention programs enables IHEs to reduce short-term and long-term risks for students recovering from substance misuse. Further, recognizing the interconnectedness between mental health and substance use disorder, H.R. 6493 encourages IHEs to holistically address substance use and mental health concerns through campus collaboration and service integration.

In addition to providing clear guidance and support, H.R. 6493 revitalizes the current statute's competitive grant program. The *Higher Education Amendments of 1998* first authorized \$5 million for competitive grants to help IHEs develop and implement drug abuse prevention programs. H.R. 6493 updates the grant program and ensures that prevention programs align with current advancements in mental health and substance misuse prevention to provide adequate support for campus substance use disorder prevention efforts. H.R. 6493 also reauthorizes the grant program at \$15 million annually for the next five years. IHEs can use grant funds for substance misuse prevention activities including, but not limited to, recovery support services to students, re-entry assistance for students on academic probation resulting from substance misuse, and efforts to prevent fatal and nonfatal overdoses.

H.R. 6493 updates the section of the HEA that outlines what must go into Program Participation Agreements between IHEs and the Department of Education (section 487) to ensure that IHEs are implementing evidence-based programs in order to access student aid in title IV. It also revises all references of "drug and alcohol abuse" to "alcohol and substance misuse" to align with current terminology and ensure the law addresses all SUDs.

#### CONCLUSION

This *Campus Prevention and Recovery Services for Students Act of 2022* will enhance the efforts of colleges and universities to provide strong evidence-based prevention recovery services for students and employees. The Committee urges the House to pass this

<sup>25</sup> Press Release, U. of Mass. Amherst, *UMass Amherst alcohol and drug abuse prevention program earns recognition as a national model, wins federal grant award* (July 28, 2008), <https://www.umass.edu/archivenewsoffice/article/umass-amherst-alcohol-and-drug-abuse-prevention-program-earns-recognition-national-model>.

bipartisan policy solution swiftly to improve the state of prevention and treatment services on our nation's campuses.

#### SECTION-BY-SECTION ANALYSIS

##### *Sec. 1. Short title*

This section states that the title of the bill is the *Campus Prevention and Recovery Services for Students Act of 2022*.

##### *Sec. 2. Alcohol and substance misuse prevention*

This section requires institutions that receive federal funding to adopt and implement an evidence-based program to prevent alcohol and substance misuse by students and employees. The section also requires the Secretary to enter into an agreement with the Secretary of Health and Human Services to develop best practices to inform the criteria that satisfy the evidence-based program requirements and promote best practices for adopting and implementing a program.

This section also updates and improves federal grants to support evidence-based alcohol and substance misuse prevention programs. Grant funding under this section can be used for activities including (but not limited to) providing recovery support services to students, re-entry assistance for students on academic probation due to substance misuse, and the prevention of fatal and nonfatal overdoses. This section authorizes \$15 million for FY 2023 and the five succeeding fiscal years for these grants.

##### *Sec. 3. Program Participation Agreements*

This section updates the Program Participation Agreement for institutions of higher education to ensure institutions are implementing evidence-based programs in order to access student aid in title IV of the *Higher Education Act* (i.e., Federal Pell Grants, Federal Work Study, Direct Loans). The section also clarifies that institutions will not be found out of compliance with Sec. 120 unless they knowingly and willfully did not adopt and implement a prevention program.

##### *Sec. 4. Report*

Requires the Secretary of Education to report to the House Committee on Education and Labor and Senate Committee on Health, Education, Labor and Pensions on efforts of the Secretary to support the implementation of evidence-based, substance misuse prevention programs and best practices from institutions receiving a grant under this section.

##### *Sec. 5. Applicability*

This section requires institutions to implement evidence-based programming beginning two years after the enactment of the bill.

#### EXPLANATION OF AMENDMENTS

The Amendment in the Nature of a Substitute is explained in the descriptive portions of this report.

## APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Pursuant to section 102(b)(3) of the *Congressional Accountability Act of 1995*, Pub. L. No. 104–1, H.R. 6493 does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

## UNFUNDED MANDATE STATEMENT

Pursuant to Section 423 of the *Congressional Budget and Impoundment Control Act of 1974*, Pub. L. No. 93–344 (as amended by Section 101(a)(2) of the *Unfunded Mandates Reform Act of 1995*, Pub. L. No. 104–4), the Committee adopts as its own the estimate of federal mandates regarding H.R. 6493, as amended, prepared by the Director of the Congressional Budget Office.

## EARMARK STATEMENT

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 6493 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of rule XXI.

## ROLL CALL VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that there were no roll call votes taken during the Committee's consideration of H.R. 6493.

## STATEMENT OF PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c) of rule XIII of the Rules of the House of Representatives, the goal of H.R. 6493 is to improve and update the section 120 of the *Higher Education Act* (HEA) to ensure IHEs utilize evidence-based practices in alcohol and drug misuse prevention and recovery programs.

## DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of H.R. 6493 is known to be duplicative of another federal program, including any program that was included in a report to Congress pursuant to section 21 of Pub. L. No. 111–139 or the most recent Catalog of Federal Domestic Assistance.

## HEARINGS

Pursuant to section clause 3(c)(6) of rule XIII of the Rules of the House of Representatives, the Subcommittee on Health, Employment, Labor and Pensions (HELP) held a hearing entitled *Meeting the Moment: Improving Access to Behavioral and Mental Health Care*, which informed the development of H.R. 6493. The Committee heard testimony on: coverage of mental health and substance use disorder treatment; the importance of improving enforcement of health parity laws; the importance of behavioral health to overall health; the impact of COVID–19 on mental health; and inequities in access to care. The Committee heard testimony

from: Meiram Bendat, J.D., Ph.D., Founder at Psych-Appeal; Christine Yu Moutier, M.D., Chief Medical Officer at the American Foundation for Suicide Prevention; Brian D. Smedley, Ph.D., Chief of Psychology in the Public Interest at the American Psychological Association; and James Gelfand, Senior Vice President of Health Policy at the ERISA Industry Committee.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF  
THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget and Impoundment Control Act of 1974*, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget and Impoundment Control Act of 1974*, the Committee has received the following estimate for H.R. 6493 from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, June 17, 2022.*

Hon. ROBERT C. (BOBBY) SCOTT,  
*Chairman, Committee on Education and Labor,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 6493, the Campus Prevention and Recovery Services for Students Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Leah Koestner.

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.

<b>H.R. 6493, Campus Prevention and Recovery Services for Students Act of 2022</b>			
As ordered reported by the House Committee on Education and Labor on May 18, 2022			
By Fiscal Year, Millions of Dollars	2022	2022-2027	2022-2032
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	56	105
Statutory pay-as-you-go procedures apply?	No	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2033?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

H.R. 6493 would amend the Alcohol and Substance Misuse Prevention Program (currently the Drug and Alcohol Abuse Prevention Program) and authorize the appropriation of \$15 million for each of fiscal years 2023 through 2028 for grants to institutions of higher education to develop and implement programs that reduce or prevent alcohol and drug use. (That authorization would automatically be extended one year under the General Education Provisions Act.)

The bill also would add new requirements to those institutions' alcohol and substance misuse prevention programs in order for them to maintain eligibility for assistance under any federal program. Finally, the bill would require the Secretary of Education, in coordination with the Secretary of Health and Human Services, to develop and issue guidance for the best practices on implementing those programs.

The costs of the legislation, detailed in Table 1, fall within budget function 500 (education, training, employment, and social services).

Based on historical spending patterns of similar grant programs, and assuming the appropriation of authorized amounts, CBO estimates that implementing the bill would cost \$56 million over the 2022–2027 period and \$49 million after 2027.

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 6493

	By fiscal year, millions of dollars—						
	2022	2023	2024	2025	2026	2027	2022–2027
Authorization Level .....	0	15	15	15	15	15	75
Estimated Outlays .....	0	1	11	14	15	15	56

The CBO staff contact for this estimate is Leah Koestner. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

## COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 6493. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the *Congressional Budget and Impoundment Control Act of 1974*.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, H.R. 6493, as reported, are shown as follows:

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

**HIGHER EDUCATION ACT OF 1965**

\* \* \* \* \*

**TITLE I—GENERAL PROVISIONS**

\* \* \* \* \*

**PART B—ADDITIONAL GENERAL PROVISIONS**

\* \* \* \* \*

**SEC. 120. [DRUG AND ALCOHOL ABUSE] ALCOHOL AND SUBSTANCE MISUSE PREVENTION.**

(a) RESTRICTION ON ELIGIBILITY.—Notwithstanding any other provision of law, no institution of higher education shall be eligible to receive funds or any other form of financial assistance under any Federal program, including participation in any federally funded or guaranteed student loan program, unless the institution certifies to the Secretary that the institution has adopted and has implemented [a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees that,] *an evidence-based program to prevent alcohol and substance misuse by students and employees that*, at a minimum, includes—

(1) the annual distribution to each student and employee of—

(A) standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on the institution's property or as part of any of the institution's activities;

(B) a description of the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol;

(C) a description of the health-risks associated with the use of illicit drugs and the abuse of alcohol;

[(D) a description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students; and]

*(D) a description of any alcohol or substance misuse counseling, treatment, rehabilitation, recovery, re-entry, or recovery support programs provided by the institution (including in partnership with a community-based organization) that are available to employees or students; and*

(E) a clear statement [that the institution will impose] *of the policies of the institution regarding* sanctions on students and employees (consistent with local, State, and Federal law), and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct required by subparagraph (A); and

(2) a biennial review by the institution of the institution's program to—

(A) determine the program's effectiveness and implement changes to the program if the changes are needed;

(B) determine the number of drug and alcohol-related violations and fatalities that—

(i) occur on the institution's campus (as defined in section 485(f)(6)), or as part of any of the institution's activities; and

(ii) are reported to campus officials;

(C) determine the number and type of sanctions described in paragraph (1)(E) that are imposed by the institution as a result of drug and alcohol-related violations and fatalities on the institution's campus or as part of any of the institution's activities; and

(D) ensure that the sanctions required by paragraph (1)(E) are consistently enforced.

(b) INFORMATION AVAILABILITY.—Each institution of higher education that provides the certification required by subsection (a) shall, upon request, make available to the Secretary and to the public a copy of each item required by subsection (a)(1) as well as the results of the biennial review required by subsection (a)(2).

(c) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for—

(A) the periodic review of a representative sample of programs required by subsection (a); [and]

(B) a range of responses and sanctions for institutions of higher education that fail to implement their programs or to consistently enforce their sanctions, including information and technical assistance, the development of a compliance agreement, and the termination of any form of Federal financial assistance[.]; *and*

(C) compliance assistance to assist institutions in complying with the requirements of this section.

(2) INTERAGENCY AGREEMENT.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall enter into an interagency agreement with the Secretary of Health and Human Services to—

(A) develop best practices that inform criteria which satisfy the requirement under subsection (a) that an institution of higher education has adopted and has implemented an evidence-based program described in such subsection;

(B) establish a process for disseminating the best practices for adopting and implementing such an evidence-based program; and

(C) establish a process that promotes coordination and collaboration between institutions of higher education and the respective State agencies that administer the Substance Abuse Prevention and Treatment Block Grants pursuant to subpart II of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x-21).

(3) GUIDANCE.—Not later than 1 year after the date of the enactment of this paragraph, the Secretary shall, in coordination with the Secretary of Health and Human Services, issue guidance with respect to the criteria described in paragraph (2)(A).

[(2)](4) REHABILITATION PROGRAM.—The sanctions required by subsection (a)(1)(E) may include the completion of an appropriate rehabilitation program.

(d) APPEALS.—Upon determination by the Secretary to terminate financial assistance to any institution of higher education under this section, the institution may file an appeal with an administrative law judge before the expiration of the 30-day period beginning on the date such institution is notified of the decision to terminate financial assistance under this section. Such judge shall hold a hearing with respect to such termination of assistance before the expiration of the 45-day period beginning on the date that such appeal is filed. Such judge may extend such 45-day period upon a motion by the institution concerned. The decision of the judge with respect to such termination shall be considered to be a final agency action.

(e) ALCOHOL AND [DRUG ABUSE] SUBSTANCE MISUSE PREVENTION GRANTS.—

(1) PROGRAM AUTHORITY.—The Secretary may make grants to institutions of higher education or consortia of such institutions, and enter into contracts with such institutions, consortia, and [other organizations] *community-based organizations that partner with institutions of higher education*, to develop, implement, operate, improve, and disseminate [programs of prevention, and education (including treatment-referral) to reduce and eliminate the illegal use of drugs and alcohol and the violence associated with such use] *evidence-based programs of alcohol and substance misuse prevention and education (including programs to improve access to treatment, referral for treatment services, or crisis intervention services) to eliminate illegal substance use, decrease substance misuse, and improve public health and safety*. Such grants or contracts may also be used for the support of a higher education center for

**[alcohol and drug abuse]** *substance use disorder* prevention that will provide training, technical assistance, evaluation, dissemination, and associated services and assistance to the higher education community as determined by the Secretary and institutions of higher education.

(2) **ADDITIONAL USES.**—*In addition to the activities described in paragraph (1), a grant or contract awarded under paragraph (1) may be used to carry out one or more of the following evidence-based programs or activities:*

(A) *Providing programs for recovery support services, and peer-to-peer support services and counseling for students with a substance use disorder.*

(B) *Promoting integration and collaboration in campus-based health services between primary care, substance use disorder services, and mental health services.*

(C) *Promoting integrated care services for students related to screening, diagnosis, prevention, and treatment of mental, behavioral, and substance use disorders.*

(D) *Providing re-entry assistance for students on academic probation due to their substance use disorder.*

(E) *Preventing fatal and nonfatal overdoses, including restoring existing mental health and substance use disorder services after a natural disaster or public health emergency declared by the Secretary of Health and Human Services under section 319 of the Public Health Service Act (42 U.S.C. 247d).*

(F) *Providing education to students, faculty, or other personnel on—*

(i) *recognizing the signs and symptoms of substance use disorder, and how to engage and support a person in a crisis situation;*

(ii) *resources available in the community, within the institution of higher education, and other relevant resources for individuals with a substance use disorder; and*

(iii) *safely de-escalating crisis situations involving individuals with a substance use disorder.*

**[(2)](3) AWARDS.**—Grants and contracts shall be awarded under paragraph (1) on a competitive basis.

**[(3)](4) APPLICATIONS.**—An institution of higher education, a consortium of such institutions, or another organization that desires to receive a grant or contract under paragraph (1) shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require by regulation.

**[(4)](5) ADDITIONAL REQUIREMENTS.**—

(A) **PARTICIPATION.**—In awarding grants and contracts under this subsection the Secretary shall make every effort to ensure—

(i) the equitable participation of private and public institutions of higher education (including community and junior colleges); and

(ii) the equitable geographic participation of such institutions.

(B) CONSIDERATION.—In awarding grants and contracts under this subsection the Secretary shall give appropriate consideration to institutions of higher education with limited enrollment.

[(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.]

(6) AUTHORIZATION OF APPROPRIATIONS.—*There are authorized to be appropriated to carry out this section \$15,000,000 for fiscal year 2023 and each of the 5 succeeding fiscal years.*

\* \* \* \* \*

TITLE IV—STUDENT ASSISTANCE

\* \* \* \* \*

PART G—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

\* \* \* \* \*

**SEC. 487. PROGRAM PARTICIPATION AGREEMENTS.**

(a) REQUIRED FOR PROGRAMS OF ASSISTANCE; CONTENTS.—In order to be an eligible institution for the purposes of any program authorized under this title, an institution must be an institution of higher education or an eligible institution (as that term is defined for the purpose of that program) and shall, except with respect to a program under subpart 4 of part A, enter into a program participation agreement with the Secretary. The agreement shall condition the initial and continuing eligibility of an institution to participate in a program upon compliance with the following requirements:

(1) The institution will use funds received by it for any program under this title and any interest or other earnings thereon solely for the purpose specified in and in accordance with the provision of that program.

(2) The institution shall not charge any student a fee for processing or handling any application, form, or data required to determine the student's eligibility for assistance under this title or the amount of such assistance.

(3) The institution will establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of funds received from the Secretary or from students under this title, together with assurances that the institution will provide, upon request and in a timely fashion, information relating to the administrative capability and financial responsibility of the institution to—

- (A) the Secretary;
- (B) the appropriate guaranty agency; and
- (C) the appropriate accrediting agency or association.

(4) The institution will comply with the provisions of subsection (c) of this section and the regulations prescribed under that subsection, relating to fiscal eligibility.

(5) The institution will submit reports to the Secretary and, in the case of an institution participating in a program under part B or part E, to holders of loans made to the institution's students under such parts at such times and containing such information as the Secretary may reasonably require to carry out the purpose of this title.

(6) The institution will not provide any student with any statement or certification to any lender under part B that qualifies the student for a loan or loans in excess of the amount that student is eligible to borrow in accordance with sections 425(a), 428(a)(2), and 428(b)(1) (A) and (B).

(7) The institution will comply with the requirements of section 485.

(8) In the case of an institution that advertises job placement rates as a means of attracting students to enroll in the institution, the institution will make available to prospective students, at or before the time of application (A) the most recent available data concerning employment statistics, graduation statistics, and any other information necessary to substantiate the truthfulness of the advertisements, and (B) relevant State licensing requirements of the State in which such institution is located for any job for which the course of instruction is designed to prepare such prospective students.

(9) In the case of an institution participating in a program under part B or D, the institution will inform all eligible borrowers enrolled in the institution about the availability and eligibility of such borrowers for State grant assistance from the State in which the institution is located, and will inform such borrowers from another State of the source for further information concerning such assistance from that State.

**[(10)](10)(A)** The institution certifies that it has in operation **[a drug abuse prevention program]** *an alcohol and substance misuse prevention program in accordance with section 120* that is determined by the institution to be accessible to any officer, employee, or student at the institution.

*(B) The institution shall be considered in compliance with the requirements of subparagraph (A) unless there is a showing that the institution knowing and willfully did not implement a prevention program described in such subparagraph.*

(11) In the case of any institution whose students receive financial assistance pursuant to section 484(d), the institution will make available to such students a program proven successful in assisting students in obtaining a certificate of high school equivalency.

(12) The institution certifies that—

(A) the institution has established a campus security policy; and

(B) the institution has complied with the disclosure requirements of section 485(f).

(13) The institution will not deny any form of Federal financial aid to any student who meets the eligibility requirements of this title on the grounds that the student is participating in a program of study abroad approved for credit by the institution.

(14)(A) The institution, in order to participate as an eligible institution under part B or D, will develop a Default Management Plan for approval by the Secretary as part of its initial application for certification as an eligible institution and will implement such Plan for two years thereafter.

(B) Any institution of higher education which changes ownership and any eligible institution which changes its status as a parent or subordinate institution shall, in order to participate as an eligible institution under part B or D, develop a Default Management Plan for approval by the Secretary and implement such Plan for two years after its change of ownership or status.

(C) This paragraph shall not apply in the case of an institution in which (i) neither the parent nor the subordinate institution has a cohort default rate in excess of 10 percent, and (ii) the new owner of such parent or subordinate institution does not, and has not, owned any other institution with a cohort default rate in excess of 10 percent.

(15) The institution acknowledges the authority of the Secretary, guaranty agencies, lenders, accrediting agencies, the Secretary of Veterans Affairs, and the State agencies under subpart 1 of part H to share with each other any information pertaining to the institution's eligibility to participate in programs under this title or any information on fraud and abuse.

(16)(A) The institution will not knowingly employ an individual in a capacity that involves the administration of programs under this title, or the receipt of program funds under this title, who has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under this title, or has been judicially determined to have committed fraud involving funds under this title or contract with an institution or third party servicer that has been terminated under section 432 involving the acquisition, use, or expenditure of funds under this title, or who has been judicially determined to have committed fraud involving funds under this title.

(B) The institution will not knowingly contract with or employ any individual, agency, or organization that has been, or whose officers or employees have been—

(i) convicted of, or pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under this title; or

(ii) judicially determined to have committed fraud involving funds under this title.

(17) The institution will complete surveys conducted as a part of the Integrated Postsecondary Education Data System (IPEDS) or any other Federal postsecondary institution data collection effort, as designated by the Secretary, in a timely manner and to the satisfaction of the Secretary.

(18) The institution will meet the requirements established pursuant to section 485(g).

(19) The institution will not impose any penalty, including the assessment of late fees, the denial of access to classes, libraries, or other institutional facilities, or the requirement that the student borrow additional funds, on any student because of

the student's inability to meet his or her financial obligations to the institution as a result of the delayed disbursement of the proceeds of a loan made under this title due to compliance with the provisions of this title, or delays attributable to the institution.

(20) The institution will not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance, except that this paragraph shall not apply to the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance.

(21) The institution will meet the requirements established by the Secretary and accrediting agencies or associations, and will provide evidence to the Secretary that the institution has the authority to operate within a State.

(22) The institution will comply with the refund policy established pursuant to section 484B.

(23)(A) The institution, if located in a State to which section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)) does not apply, will make a good faith effort to distribute a mail voter registration form, requested and received from the State, to each student enrolled in a degree or certificate program and physically in attendance at the institution, and to make such forms widely available to students at the institution.

(B) The institution shall request the forms from the State 120 days prior to the deadline for registering to vote within the State. If an institution has not received a sufficient quantity of forms to fulfill this section from the State within 60 days prior to the deadline for registering to vote in the State, the institution shall not be held liable for not meeting the requirements of this section during that election year.

(C) This paragraph shall apply to general and special elections for Federal office, as defined in section 301(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(3)), and to the elections for Governor or other chief executive within such State).

(D) The institution shall be considered in compliance with the requirements of subparagraph (A) for each student to whom the institution electronically transmits a message containing a voter registration form acceptable for use in the State in which the institution is located, or an Internet address where such a form can be downloaded, if such information is in an electronic message devoted exclusively to voter registration.

(24) In the case of a proprietary institution of higher education (as defined in section 102(b)), such institution will derive not less than ten percent of such institution's revenues from sources other than Federal funds that are disbursed or delivered to or on behalf of a student to be used to attend such institution (referred to in this paragraph and subsection (d) as "Federal education assistance funds"), as calculated in accord-

ance with subsection (d)(1), or will be subject to the sanctions described in subsection (d)(2).

(25) In the case of an institution that participates in a loan program under this title, the institution will—

(A) develop a code of conduct with respect to such loans with which the institution's officers, employees, and agents shall comply, that—

(i) prohibits a conflict of interest with the responsibilities of an officer, employee, or agent of an institution with respect to such loans; and

(ii) at a minimum, includes the provisions described in subsection (e);

(B) publish such code of conduct prominently on the institution's website; and

(C) administer and enforce such code by, at a minimum, requiring that all of the institution's officers, employees, and agents with responsibilities with respect to such loans be annually informed of the provisions of the code of conduct.

(26) The institution will, upon written request, disclose to the alleged victim of any crime of violence (as that term is defined in section 16 of title 18, United States Code), or a nonforcible sex offense, the report on the results of any disciplinary proceeding conducted by such institution against a student who is the alleged perpetrator of such crime or offense with respect to such crime or offense. If the alleged victim of such crime or offense is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

(27) In the case of an institution that has entered into a preferred lender arrangement, the institution will at least annually compile, maintain, and make available for students attending the institution, and the families of such students, a list, in print or other medium, of the specific lenders for loans made, insured, or guaranteed under this title or private education loans that the institution recommends, promotes, or endorses in accordance with such preferred lender arrangement. In making such list, the institution shall comply with the requirements of subsection (h).

(28)(A) The institution will, upon the request of an applicant for a private education loan, provide to the applicant the form required under section 128(e)(3) of the Truth in Lending Act (15 U.S.C. 1638(e)(3)), and the information required to complete such form, to the extent the institution possesses such information.

(B) For purposes of this paragraph, the term "private education loan" has the meaning given such term in section 140 of the Truth in Lending Act.

(29) The institution certifies that the institution—

(A) has developed plans to effectively combat the unauthorized distribution of copyrighted material, including through the use of a variety of technology-based deterrents; and

(B) will, to the extent practicable, offer alternatives to illegal downloading or peer-to-peer distribution of intellec-

tual property, as determined by the institution in consultation with the chief technology officer or other designated officer of the institution.

(b) HEARINGS.—(1) An institution that has received written notice of a final audit or program review determination and that desires to have such determination reviewed by the Secretary shall submit to the Secretary a written request for review not later than 45 days after receipt of notification of the final audit or program review determination.

(2) The Secretary shall, upon receipt of written notice under paragraph (1), arrange for a hearing and notify the institution within 30 days of receipt of such notice the date, time, and place of such hearing. Such hearing shall take place not later than 120 days from the date upon which the Secretary notifies the institution.

(c) AUDITS; FINANCIAL RESPONSIBILITY; ENFORCEMENT OF STANDARDS.—(1) Notwithstanding any other provisions of this title, the Secretary shall prescribe such regulations as may be necessary to provide for—

(A)(i) except as provided in clauses (ii) and (iii), a financial audit of an eligible institution with regard to the financial condition of the institution in its entirety, and a compliance audit of such institution with regard to any funds obtained by it under this title or obtained from a student or a parent who has a loan insured or guaranteed by the Secretary under this title, on at least an annual basis and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary and shall be available to cognizant guaranty agencies, eligible lenders, State agencies, and the appropriate State agency notifying the Secretary under subpart 1 of part H, except that the Secretary may modify the requirements of this clause with respect to institutions of higher education that are foreign institutions, and may waive such requirements with respect to a foreign institution whose students receive less than \$500,000 in loans under this title during the award year preceding the audit period;

(ii) with regard to an eligible institution which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period covered by such audit; or

(iii) at the discretion of the Secretary, with regard to an eligible institution (other than an eligible institution described in section 102(a)(1)(C)) that has obtained less than \$200,000 in funds under this title during each of the 2 award years that precede the audit period and submits a letter of credit payable to the Secretary equal to not less than  $\frac{1}{2}$  of the annual potential liabilities of such institution as determined by the Secretary, deeming an audit conducted every 3 years to satisfy the requirements of clause (i), except for the award year immediately preceding renewal of the institution's eligibility under section 498(g);

(B) in matters not governed by specific program provisions, the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid under this title, including any matter the Secretary deems necessary to the sound administration of the financial aid programs, such as the pertinent actions of any owner, shareholder, or person exercising control over an eligible institution;

(C)(i) except as provided in clause (ii), a compliance audit of a third party servicer (other than with respect to the servicer's functions as a lender if such functions are otherwise audited under this part and such audits meet the requirements of this clause), with regard to any contract with an eligible institution, guaranty agency, or lender for administering or servicing any aspect of the student assistance programs under this title, at least once every year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a third party servicer that is audited under chapter 75 of title 31, United States Code, such audit shall be deemed to satisfy the requirements of clause (i) for the period covered by such audit;

(D)(i) a compliance audit of a secondary market with regard to its transactions involving, and its servicing and collection of, loans made under this title, at least once a year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a secondary market that is audited under chapter 75 of title 31, United States Code, such audit shall be deemed to satisfy the requirements of clause (i) for the period covered by the audit;

(E) the establishment, by each eligible institution under part B responsible for furnishing to the lender the statement required by section 428(a)(2)(A)(i), of policies and procedures by which the latest known address and enrollment status of any student who has had a loan insured under this part and who has either formally terminated his enrollment, or failed to re-enroll on at least a half-time basis, at such institution, shall be furnished either to the holder (or if unknown, the insurer) of the note, not later than 60 days after such termination or failure to re-enroll;

(F) the limitation, suspension, or termination of the participation in any program under this title of an eligible institution, or the imposition of a civil penalty under paragraph (3)(B) whenever the Secretary has determined, after reasonable notice and opportunity for hearing, that such institution has vio-

lated or failed to carry out any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation, except that no period of suspension under this section shall exceed 60 days unless the institution and the Secretary agree to an extension or unless limitation or termination proceedings are initiated by the Secretary within that period of time;

(G) an emergency action against an institution, under which the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to the institution (by registered mail, return receipt requested), withhold funds from the institution or its students and withdraw the institution's authority to obligate funds under any program under this title, if the Secretary—

(i) receives information, determined by the Secretary to be reliable, that the institution is violating any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation,

(ii) determines that immediate action is necessary to prevent misuse of Federal funds, and

(iii) determines that the likelihood of loss outweighs the importance of the procedures prescribed under subparagraph (D) for limitation, suspension, or termination, except that an emergency action shall not exceed 30 days unless limitation, suspension, or termination proceedings are initiated by the Secretary against the institution within that period of time, and except that the Secretary shall provide the institution an opportunity to show cause, if it so requests, that the emergency action is unwarranted;

(H) the limitation, suspension, or termination of the eligibility of a third party servicer to contract with any institution to administer any aspect of an institution's student assistance program under this title, or the imposition of a civil penalty under paragraph (3)(B), whenever the Secretary has determined, after reasonable notice and opportunity for a hearing, that such organization, acting on behalf of an institution, has violated or failed to carry out any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation, except that no period of suspension under this subparagraph shall exceed 60 days unless the organization and the Secretary agree to an extension, or unless limitation or termination proceedings are initiated by the Secretary against the individual or organization within that period of time; and

(I) an emergency action against a third party servicer that has contracted with an institution to administer any aspect of the institution's student assistance program under this title, under which the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to such individual or organization (by registered mail, return receipt requested), withhold funds from the individual or organization and withdraw the individual or organization's authority to act on behalf of an institution under any program under this title, if the Secretary—

(i) receives information, determined by the Secretary to be reliable, that the individual or organization, acting on behalf of an institution, is violating any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation,

(ii) determines that immediate action is necessary to prevent misuse of Federal funds, and

(iii) determines that the likelihood of loss outweighs the importance of the procedures prescribed under subparagraph (F), for limitation, suspension, or termination, except that an emergency action shall not exceed 30 days unless the limitation, suspension, or termination proceedings are initiated by the Secretary against the individual or organization within that period of time, and except that the Secretary shall provide the individual or organization an opportunity to show cause, if it so requests, that the emergency action is unwarranted.

(2) If an individual who, or entity that, exercises substantial control, as determined by the Secretary in accordance with the definition of substantial control in subpart 3 of part H, over one or more institutions participating in any program under this title, or, for purposes of paragraphs (1) (H) and (I), over one or more organizations that contract with an institution to administer any aspect of the institution's student assistance program under this title, is determined to have committed one or more violations of the requirements of any program under this title, or has been suspended or debarred in accordance with the regulations of the Secretary, the Secretary may use such determination, suspension, or debarment as the basis for imposing an emergency action on, or limiting, suspending, or terminating, in a single proceeding, the participation of any or all institutions under the substantial control of that individual or entity.

(3)(A) Upon determination, after reasonable notice and opportunity for a hearing, that an eligible institution has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates, the Secretary may suspend or terminate the eligibility status for any or all programs under this title of any otherwise eligible institution, in accordance with procedures specified in paragraph (1)(D) of this subsection, until the Secretary finds that such practices have been corrected.

(B)(i) Upon determination, after reasonable notice and opportunity for a hearing, that an eligible institution—

(I) has violated or failed to carry out any provision of this title or any regulation prescribed under this title; or

(II) has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, and the employability of its graduates,

the Secretary may impose a civil penalty upon such institution of not to exceed \$25,000 for each violation or misrepresentation.

(ii) Any civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the institution of higher education subject to the determination, and the gravity of the violation, failure, or misrepresentation shall

be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the institution charged.

(4) The Secretary shall publish a list of State agencies which the Secretary determines to be reliable authority as to the quality of public postsecondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistance programs.

(5) The Secretary shall make readily available to appropriate guaranty agencies, eligible lenders, State agencies notifying the Secretary under subpart 1 of part H, and accrediting agencies or associations the results of the audits of eligible institutions conducted pursuant to paragraph (1)(A).

(6) The Secretary is authorized to provide any information collected as a result of audits conducted under this section, together with audit information collected by guaranty agencies, to any Federal or State agency having responsibilities with respect to student financial assistance, including those referred to in subsection (a)(15) of this section.

(7) Effective with respect to any audit conducted under this subsection after December 31, 1988, if, in the course of conducting any such audit, the personnel of the Department of Education discover, or are informed of, grants or other assistance provided by an institution in accordance with this title for which the institution has not received funds appropriated under this title (in the amount necessary to provide such assistance), including funds for which reimbursement was not requested prior to such discovery or information, such institution shall be permitted to offset that amount against any sums determined to be owed by the institution pursuant to such audit, or to receive reimbursement for that amount (if the institution does not owe any such sums).

(d) IMPLEMENTATION OF NON-FEDERAL REVENUE REQUIREMENT.—

(1) CALCULATION.—In making calculations under subsection (a)(24), a proprietary institution of higher education shall—

(A) use the cash basis of accounting, except in the case of loans described in subparagraph (D)(i) that are made by the proprietary institution of higher education;

(B) consider as revenue only those funds generated by the institution from—

(i) tuition, fees, and other institutional charges for students enrolled in programs eligible for assistance under this title;

(ii) activities conducted by the institution that are necessary for the education and training of the institution's students, if such activities are—

(I) conducted on campus or at a facility under the control of the institution;

(II) performed under the supervision of a member of the institution's faculty; and

(III) required to be performed by all students in a specific educational program at the institution; and

(iii) funds paid by a student, or on behalf of a student by a party other than the institution, for an education or training program that is not eligible for funds under this title, if the program—

(I) is approved or licensed by the appropriate State agency;

(II) is accredited by an accrediting agency recognized by the Secretary; or

(III) provides an industry-recognized credential or certification;

(C) presume that any Federal education assistance funds that are disbursed or delivered to or on behalf of a student will be used to pay the student's tuition, fees, or other institutional charges, regardless of whether the institution credits those funds to the student's account or pays those funds directly to the student, except to the extent that the student's tuition, fees, or other institutional charges are satisfied by—

(i) grant funds provided by non-Federal public agencies or private sources independent of the institution;

(ii) funds provided under a contractual arrangement with a Federal, State, or local government agency for the purpose of providing job training to low-income individuals who are in need of that training;

(iii) funds used by a student from savings plans for educational expenses established by or on behalf of the student and which qualify for special tax treatment under the Internal Revenue Code of 1986; or

(iv) institutional scholarships described in subparagraph (D)(iii);

(D) include institutional aid as revenue to the school only as follows:

(i) in the case of loans made by a proprietary institution of higher education on or after July 1, 2008 and prior to July 1, 2012, the net present value of such loans made by the institution during the applicable institutional fiscal year accounted for on an accrual basis and estimated in accordance with generally accepted accounting principles and related standards and guidance, if the loans—

(I) are bona fide as evidenced by enforceable promissory notes;

(II) are issued at intervals related to the institution's enrollment periods; and

(III) are subject to regular loan repayments and collections;

(ii) in the case of loans made by a proprietary institution of higher education on or after July 1, 2012, only the amount of loan repayments received during the applicable institutional fiscal year, excluding repayments on loans made and accounted for as specified in clause (i); and

(iii) in the case of scholarships provided by a proprietary institution of higher education, only those scholarships provided by the institution in the form of mon-

etary aid or tuition discounts based upon the academic achievements or financial need of students, disbursed during each fiscal year from an established restricted account, and only to the extent that funds in that account represent designated funds from an outside source or from income earned on those funds;

(E) in the case of each student who receives a loan on or after July 1, 2008, and prior to July 1, 2011, that is authorized under section 428H or that is a Federal Direct Unsubsidized Stafford Loan, treat as revenue received by the institution from sources other than funds received under this title, the amount by which the disbursement of such loan received by the institution exceeds the limit on such loan in effect on the day before the date of enactment of the Ensuring Continued Access to Student Loans Act of 2008; and

(F) exclude from revenues—

(i) the amount of funds the institution received under part C, unless the institution used those funds to pay a student's institutional charges;

(ii) the amount of funds the institution received under subpart 4 of part A;

(iii) the amount of funds provided by the institution as matching funds for a program under this title;

(iv) the amount of funds provided by the institution for a program under this title that are required to be refunded or returned; and

(v) the amount charged for books, supplies, and equipment, unless the institution includes that amount as tuition, fees, or other institutional charges.

(2) SANCTIONS.—

(A) INELIGIBILITY.—A proprietary institution of higher education that fails to meet a requirement of subsection (a)(24) for two consecutive institutional fiscal years shall be ineligible to participate in the programs authorized by this title for a period of not less than two institutional fiscal years. To regain eligibility to participate in the programs authorized by this title, a proprietary institution of higher education shall demonstrate compliance with all eligibility and certification requirements under section 498 for a minimum of two institutional fiscal years after the institutional fiscal year in which the institution became ineligible.

(B) ADDITIONAL ENFORCEMENT.—In addition to such other means of enforcing the requirements of this title as may be available to the Secretary, if a proprietary institution of higher education fails to meet a requirement of subsection (a)(24) for any institutional fiscal year, then the institution's eligibility to participate in the programs authorized by this title becomes provisional for the two institutional fiscal years after the institutional fiscal year in which the institution failed to meet the requirement of subsection (a)(24), except that such provisional eligibility shall terminate—

(i) on the expiration date of the institution's program participation agreement under this subsection that is in effect on the date the Secretary determines that the institution failed to meet the requirement of subsection (a)(24); or

(ii) in the case that the Secretary determines that the institution failed to meet a requirement of subsection (a)(24) for two consecutive institutional fiscal years, on the date the institution is determined ineligible in accordance with subparagraph (A).

(3) PUBLICATION ON COLLEGE NAVIGATOR WEBSITE.—The Secretary shall publicly disclose on the College Navigator website—

(A) the identity of any proprietary institution of higher education that fails to meet a requirement of subsection (a)(24); and

(B) the extent to which the institution failed to meet such requirement.

(4) REPORT TO CONGRESS.—Not later than July 1, 2009, and July 1 of each succeeding year, the Secretary shall submit to the authorizing committees a report that contains, for each proprietary institution of higher education that receives assistance under this title, as provided in the audited financial statements submitted to the Secretary by each institution pursuant to the requirements of subsection (a)(24)—

(A) the amount and percentage of such institution's revenues received from sources under this title; and

(B) the amount and percentage of such institution's revenues received from other sources.

(e) CODE OF CONDUCT REQUIREMENTS.—An institution of higher education's code of conduct, as required under subsection (a)(25), shall include the following requirements:

(1) BAN ON REVENUE-SHARING ARRANGEMENTS.—

(A) PROHIBITION.—The institution shall not enter into any revenue-sharing arrangement with any lender.

(B) DEFINITION.—For purposes of this paragraph, the term "revenue-sharing arrangement" means an arrangement between an institution and a lender under which—

(i) a lender provides or issues a loan that is made, insured, or guaranteed under this title to students attending the institution or to the families of such students; and

(ii) the institution recommends the lender or the loan products of the lender and in exchange, the lender pays a fee or provides other material benefits, including revenue or profit sharing, to the institution, an officer or employee of the institution, or an agent.

(2) GIFT BAN.—

(A) PROHIBITION.—No officer or employee of the institution who is employed in the financial aid office of the institution or who otherwise has responsibilities with respect to education loans, or agent who has responsibilities with respect to education loans, shall solicit or accept any gift from a lender, guarantor, or servicer of education loans.

(B) DEFINITION OF GIFT.—

(i) **IN GENERAL.**—In this paragraph, the term “gift” means any gratuity, favor, discount, entertainment, hospitality, loan, or other item having a monetary value of more than a de minimus amount. The term includes a gift of services, transportation, lodging, or meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

(ii) **EXCEPTIONS.**—The term “gift” shall not include any of the following:

(I) Standard material, activities, or programs on issues related to a loan, default aversion, default prevention, or financial literacy, such as a brochure, a workshop, or training.

(II) Food, refreshments, training, or informational material furnished to an officer or employee of an institution, or to an agent, as an integral part of a training session that is designed to improve the service of a lender, guarantor, or servicer of education loans to the institution, if such training contributes to the professional development of the officer, employee, or agent.

(III) Favorable terms, conditions, and borrower benefits on an education loan provided to a student employed by the institution if such terms, conditions, or benefits are comparable to those provided to all students of the institution.

(IV) Entrance and exit counseling services provided to borrowers to meet the institution’s responsibilities for entrance and exit counseling as required by subsections (b) and (l) of section 485, as long as—

(aa) the institution’s staff are in control of the counseling, (whether in person or via electronic capabilities); and

(bb) such counseling does not promote the products or services of any specific lender.

(V) Philanthropic contributions to an institution from a lender, servicer, or guarantor of education loans that are unrelated to education loans or any contribution from any lender, guarantor, or servicer that is not made in exchange for any advantage related to education loans.

(VI) State education grants, scholarships, or financial aid funds administered by or on behalf of a State.

(iii) **RULE FOR GIFTS TO FAMILY MEMBERS.**—For purposes of this paragraph, a gift to a family member of an officer or employee of an institution, to a family member of an agent, or to any other individual based on that individual’s relationship with the officer, employee, or agent, shall be considered a gift to the officer, employee, or agent if—

(I) the gift is given with the knowledge and acquiescence of the officer, employee, or agent; and

(II) the officer, employee, or agent has reason to believe the gift was given because of the official position of the officer, employee, or agent.

(3) CONTRACTING ARRANGEMENTS PROHIBITED.—

(A) PROHIBITION.—An officer or employee who is employed in the financial aid office of the institution or who otherwise has responsibilities with respect to education loans, or an agent who has responsibilities with respect to education loans, shall not accept from any lender or affiliate of any lender any fee, payment, or other financial benefit (including the opportunity to purchase stock) as compensation for any type of consulting arrangement or other contract to provide services to a lender or on behalf of a lender relating to education loans.

(B) EXCEPTIONS.—Nothing in this subsection shall be construed as prohibiting—

(i) an officer or employee of an institution who is not employed in the institution's financial aid office and who does not otherwise have responsibilities with respect to education loans, or an agent who does not have responsibilities with respect to education loans, from performing paid or unpaid service on a board of directors of a lender, guarantor, or servicer of education loans;

(ii) an officer or employee of the institution who is not employed in the institution's financial aid office but who has responsibility with respect to education loans as a result of a position held at the institution, or an agent who has responsibility with respect to education loans, from performing paid or unpaid service on a board of directors of a lender, guarantor, or servicer of education loans, if the institution has a written conflict of interest policy that clearly sets forth that officers, employees, or agents must recuse themselves from participating in any decision of the board regarding education loans at the institution; or

(iii) an officer, employee, or contractor of a lender, guarantor, or servicer of education loans from serving on a board of directors, or serving as a trustee, of an institution, if the institution has a written conflict of interest policy that the board member or trustee must recuse themselves from any decision regarding education loans at the institution.

(4) INTERACTION WITH BORROWERS.—The institution shall not—

(A) for any first-time borrower, assign, through award packaging or other methods, the borrower's loan to a particular lender; or

(B) refuse to certify, or delay certification of, any loan based on the borrower's selection of a particular lender or guaranty agency.

(5) PROHIBITION ON OFFERS OF FUNDS FOR PRIVATE LOANS.—

(A) PROHIBITION.—The institution shall not request or accept from any lender any offer of funds to be used for private education loans (as defined in section 140 of the

Truth in Lending Act), including funds for an opportunity pool loan, to students in exchange for the institution providing concessions or promises regarding providing the lender with—

- (i) a specified number of loans made, insured, or guaranteed under this title;
- (ii) a specified loan volume of such loans; or
- (iii) a preferred lender arrangement for such loans.

(B) DEFINITION OF OPPORTUNITY POOL LOAN.—In this paragraph, the term “opportunity pool loan” means a private education loan made by a lender to a student attending the institution or the family member of such a student that involves a payment, directly or indirectly, by such institution of points, premiums, additional interest, or financial support to such lender for the purpose of such lender extending credit to the student or the family.

(6) BAN ON STAFFING ASSISTANCE.—

(A) PROHIBITION.—The institution shall not request or accept from any lender any assistance with call center staffing or financial aid office staffing.

(B) CERTAIN ASSISTANCE PERMITTED.—Nothing in paragraph (1) shall be construed to prohibit the institution from requesting or accepting assistance from a lender related to—

- (i) professional development training for financial aid administrators;
- (ii) providing educational counseling materials, financial literacy materials, or debt management materials to borrowers, provided that such materials disclose to borrowers the identification of any lender that assisted in preparing or providing such materials; or
- (iii) staffing services on a short-term, nonrecurring basis to assist the institution with financial aid-related functions during emergencies, including State-declared or federally declared natural disasters, federally declared national disasters, and other localized disasters and emergencies identified by the Secretary.

(7) ADVISORY BOARD COMPENSATION.—Any employee who is employed in the financial aid office of the institution, or who otherwise has responsibilities with respect to education loans or other student financial aid of the institution, and who serves on an advisory board, commission, or group established by a lender, guarantor, or group of lenders or guarantors, shall be prohibited from receiving anything of value from the lender, guarantor, or group of lenders or guarantors, except that the employee may be reimbursed for reasonable expenses incurred in serving on such advisory board, commission, or group.

(f) INSTITUTIONAL REQUIREMENTS FOR TEACH-OUTS.—

(1) IN GENERAL.—In the event the Secretary initiates the limitation, suspension, or termination of the participation of an institution of higher education in any program under this title under the authority of subsection (c)(1)(F) or initiates an emergency action under the authority of subsection (c)(1)(G) and its prescribed regulations, the Secretary shall require that institution to prepare a teach-out plan for submission to the institu-

tion's accrediting agency or association in compliance with section 496(c)(3), the Secretary's regulations on teach-out plans, and the standards of the institution's accrediting agency or association.

(2) **TEACH-OUT PLAN DEFINED.**—In this subsection, the term “teach-out plan” means a written plan that provides for the equitable treatment of students if an institution of higher education ceases to operate before all students have completed their program of study, and may include, if required by the institution's accrediting agency or association, an agreement between institutions for such a teach-out plan.

(g) **INSPECTOR GENERAL REPORT ON GIFT BAN VIOLATIONS.**—The Inspector General of the Department shall—

(1) submit an annual report to the authorizing committees identifying all violations of an institution's code of conduct that the Inspector General has substantiated during the preceding year relating to the gift ban provisions described in subsection (e)(2); and

(2) make the report available to the public through the Department's website.

(h) **PREFERRED LENDER LIST REQUIREMENTS.**—

(1) **IN GENERAL.**—In compiling, maintaining, and making available a preferred lender list as required under subsection (a)(27), the institution will—

(A) clearly and fully disclose on such preferred lender list—

(i) not less than the information required to be disclosed under section 153(a)(2)(A);

(ii) why the institution has entered into a preferred lender arrangement with each lender on the preferred lender list, particularly with respect to terms and conditions or provisions favorable to the borrower; and

(iii) that the students attending the institution, or the families of such students, do not have to borrow from a lender on the preferred lender list;

(B) ensure, through the use of the list of lender affiliates provided by the Secretary under paragraph (2), that—

(i) there are not less than three lenders of loans made under part B that are not affiliates of each other included on the preferred lender list and, if the institution recommends, promotes, or endorses private education loans, there are not less than two lenders of private education loans that are not affiliates of each other included on the preferred lender list; and

(ii) the preferred lender list under this paragraph—

(I) specifically indicates, for each listed lender, whether the lender is or is not an affiliate of each other lender on the preferred lender list; and

(II) if a lender is an affiliate of another lender on the preferred lender list, describes the details of such affiliation;

(C) prominently disclose the method and criteria used by the institution in selecting lenders with which to enter into preferred lender arrangements to ensure that such lenders

are selected on the basis of the best interests of the borrowers, including—

- (i) payment of origination or other fees on behalf of the borrower;
- (ii) highly competitive interest rates, or other terms and conditions or provisions of loans under this title or private education loans;
- (iii) high-quality servicing for such loans; or
- (iv) additional benefits beyond the standard terms and conditions or provisions for such loans;

(D) exercise a duty of care and a duty of loyalty to compile the preferred lender list under this paragraph without prejudice and for the sole benefit of the students attending the institution, or the families of such students;

(E) not deny or otherwise impede the borrower's choice of a lender or cause unnecessary delay in loan certification under this title for those borrowers who choose a lender that is not included on the preferred lender list; and

(F) comply with such other requirements as the Secretary may prescribe by regulation.

(2) LENDER AFFILIATES LIST.—

(A) IN GENERAL.—The Secretary shall maintain and regularly update a list of lender affiliates of all eligible lenders, and shall provide such list to institutions for use in carrying out paragraph (1)(B).

(B) USE OF MOST RECENT LIST.—An institution shall use the most recent list of lender affiliates provided by the Secretary under subparagraph (A) in carrying out paragraph (1)(B).

(i) DEFINITIONS.—For the purpose of this section:

(1) AGENT.—The term “agent” has the meaning given the term in section 151.

(2) AFFILIATE.—The term “affiliate” means a person that controls, is controlled by, or is under common control with another person. A person controls, is controlled by, or is under common control with another person if—

(A) the person directly or indirectly, or acting through one or more others, owns, controls, or has the power to vote five percent or more of any class of voting securities of such other person;

(B) the person controls, in any manner, the election of a majority of the directors or trustees of such other person; or

(C) the Secretary determines (after notice and opportunity for a hearing) that the person directly or indirectly exercises a controlling interest over the management or policies of such other person's education loans.

(3) EDUCATION LOAN.—The term “education loan” has the meaning given the term in section 151.

(4) ELIGIBLE INSTITUTION.—The term “eligible institution” means any such institution described in section 102 of this Act.

(5) OFFICER.—The term “officer” has the meaning given the term in section 151.

(6) PREFERRED LENDER ARRANGEMENT.—The term “preferred lender arrangement” has the meaning given the term in section 151.

(j) CONSTRUCTION.—Nothing in the amendments made by the Higher Education Amendments of 1992 shall be construed to prohibit an institution from recording, at the cost of the institution, a hearing referred to in subsection (b)(2), subsection (c)(1)(D), or subparagraph (A) or (B)(i) of subsection (c)(2), of this section to create a record of the hearing, except the unavailability of a recording shall not serve to delay the completion of the proceeding. The Secretary shall allow the institution to use any reasonable means, including stenographers, of recording the hearing.

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