

115TH CONGRESS
2D SESSION

H. R. 7112

To improve the Higher Education Act of 1965, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 30, 2018

Mr. TAKANO (for himself, Mr. GARAMENDI, and Mr. AGUILAR) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To improve the Higher Education Act of 1965, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Protections and Regulation for Our Students Act” or
6 “PRO Students Act”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. 85–15 revenue source requirement for proprietary institutions.
- Sec. 3. Definitions.
- Sec. 4. Restriction on marketing with Federal educational assistance funds.

- Sec. 5. Whistleblower protections for persons associated with institutions of higher education.
- Sec. 6. Establishment of complaint resolution and tracking system.
- Sec. 7. Improved determination of cohort default rates; publication of default prevention plan.
- Sec. 8. Amendments to terms and conditions of borrower defenses.
- Sec. 9. Improved student loan servicing and debt collection practices.
- Sec. 10. Improved disclosures, counseling, and financial assistance information for students.
- Sec. 11. Program participation agreements.
- Sec. 12. Improved disclosures for clinical training programs.
- Sec. 13. Civil penalties.
- Sec. 14. Requirements for accrediting agencies or associations.
- Sec. 15. Program review and data.
- Sec. 16. Consumer protections for students.

1 **SEC. 2. 85–15 REVENUE SOURCE REQUIREMENT FOR PRO-**
 2 **PRIETARY INSTITUTIONS.**

3 (a) CHANGE FROM 90–10 TO 85–15.—Section
 4 487(a)(24) of the Higher Education Act of 1965 (20
 5 U.S.C. 1094(a)(24)) is amended by striking “ten percent”
 6 and inserting “15 percent”.

7 (b) REVISIONS TO ACCOUNTING.—Section 487(d)(1)
 8 of the Higher Education Act of 1965 (20 U.S.C.
 9 1094(d)(1)) is amended—

10 (1) in subparagraph (A), by striking “account-
 11 ing,” and all that follows and inserting “account-
 12 ing;”;

13 (2) in subparagraph (B), by striking clause (iii)
 14 and inserting the following new clause:

15 “(iii) a contractual arrangement with
 16 a Federal agency for the purpose of pro-
 17 viding job training to low-income individ-
 18 uals who are in need of such training;”;

1 (3) in subparagraph (C)—

2 (A) by striking clauses (i) through (iii) and
3 inserting the following new clause:

4 “(i) grant funds provided by a source
5 that has no affiliation with the institution
6 and shares no employees with the institu-
7 tion;”; and

8 (B) by redesignating clause (iv) as clause
9 (ii); and

10 (4) by striking subparagraphs (D) and (E) and
11 inserting the following new subparagraphs:

12 “(D) include no loans made by an institu-
13 tion of higher education as revenue to the
14 school, except for payments made by students
15 on such loans;

16 “(E) include a scholarship provided by the
17 institution—

18 “(i) only if the scholarship is in the
19 form of monetary aid based upon the aca-
20 demic achievements or financial need of
21 students, disbursed to qualified student re-
22 cipients during each fiscal year from an es-
23 tablished restricted account; and

24 “(ii) only to the extent that funds in
25 that account represent designated funds,

1 or income earned on such funds, from a
2 source that has no affiliation with the in-
3 stitution and shares no employees with the
4 institution; and”.

5 **SEC. 3. DEFINITIONS.**

6 (a) IN GENERAL.—Section 103 of the Higher Edu-
7 cation Act of 1965 (20 U.S.C. 1003) is amended—

8 (1) by redesignating paragraphs (4) through
9 (9), (10) through (14), and (15) through (24), as
10 paragraphs (5) through (10), (12) through (16), and
11 (18) through (26), respectively;

12 (2) by inserting after paragraph (3) the fol-
13 lowing new paragraph:

14 “(4) DEFAULT MANIPULATION.—The term ‘de-
15 fault manipulation’ means engaging in a device or
16 practice, including branching, consolidation of cam-
17 puses, consolidation or manipulation of the identi-
18 fication codes used by the Office of Postsecondary
19 Education to designate campuses and institutions,
20 change of ownership or control, serial forbearance,
21 or any similar device or practice (as determined by
22 the Secretary) when, but for the device or practice,
23 one or more campuses of an institution of higher
24 education would be at risk of cohort default rate

1 sanctions under section 435 or student default risk
2 sanctions under section 489A.”;

3 (3) by inserting after paragraph (10), as reded-
4 igned by paragraph (1) of this section, the fol-
5 lowing new paragraph:

6 “(11) FEDERAL EDUCATIONAL ASSISTANCE
7 FUNDS.—The term ‘Federal educational assistance
8 funds’ means funds provided directly to an institu-
9 tion or to a student attending such institution under
10 any of the following provisions of law:

11 “(A) Title IV.

12 “(B) Section 477 of the Social Security
13 Act.

14 “(C) Chapter 30, 31, 32, 33, 34, or 35 of
15 title 38, United States Code.

16 “(D) Chapter 101, 105, 106A, 1606,
17 1607, or 1608 of title 10, United States Code.

18 “(E) Section 1784a, 2005, or 2007 of title
19 10, United States Code.

20 “(F) Title I of the Workforce Innovation
21 and Opportunity Act (29 U.S.C. 3101 et seq.).

22 “(G) The Adult Education and Family Lit-
23 eracy Act (29 U.S.C. 3101 et seq.).”; and

(4) by inserting after paragraph (16), as redesignated by paragraph (1) of this section, the following new paragraph:

“(17) RECRUITING AND MARKETING ACTIVITY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘recruiting and marketing activity’ means an activity that consists of any of the following:

“(i) Any advertising or promotion activity, including a paid announcement in newspapers, magazines, radio, television, billboards, electronic media, naming rights, or any other public medium of communication, including paying for a display or promotion at a job fair, military installation, or postsecondary education recruiting event.

“(ii) Any effort to identify and attract prospective students, directly or through a contractor or other third party, including any contact concerning a prospective student’s potential enrollment or application for grant, loan, or work assistance under

1 title IV or participation in preadmission or
2 advising activities, including—

3 “(I) paying employees responsible
4 for overseeing enrollment and for con-
5 tacting potential students in person,
6 by phone, by email, by internet com-
7 munications, or by other means, re-
8 garding enrollment;

9 “(II) compensating a person to
10 provide to an institution of higher
11 education contact information regard-
12 ing prospective students, including in-
13 formation obtained through websites
14 established for such purpose; and

15 “(III) providing funds to a third
16 party to create or maintain a website
17 for the purpose of obtaining contact
18 information regarding prospective stu-
19 dents.

20 “(iii) Any other activity as the Sec-
21 retary may determine.

22 “(B) EXCEPTION.—An activity that is re-
23 quired as a condition of receipt of funds by an
24 institution under title IV, or under another ap-
25 plicable Federal law, shall not be considered to

1 be a recruiting and marketing activity under
2 subparagraph (A).”.

3 (b) TITLE IV PROGRAMS.—Section 481 of the Higher
4 Education Act of 1965 (20 U.S.C. 1088) is amended by
5 adding at the end the following new subsection:

6 “(g) STUDENT DEFAULT RISK.—In this title, the
7 term ‘student default risk’ means the percentage that is
8 calculated by taking an institution’s cohort default rate
9 (as defined in section 435(m)) for the most recent fiscal
10 year available, and multiplying it by the percentage of stu-
11 dents enrolled at such institution receiving a loan made,
12 insured, or guaranteed under this title during the previous
13 academic year.”.

14 **SEC. 4. RESTRICTION ON MARKETING WITH FEDERAL EDU-**
15 **CATIONAL ASSISTANCE FUNDS.**

16 (a) REPEAL OF EXISTING PROVISION.—The Higher
17 Education Opportunity Act is amended by striking section
18 119 (20 U.S.C. 1011m).

19 (b) INSERTION IN HIGHER EDUCATION ACT OF 1965
20 AND AMENDMENTS.—Part B of title I of the Higher Edu-
21 cation Act of 1965 (20 U.S.C. 1011 et seq.) is amended
22 by adding at the end the following new section:

1 **“SEC. 124. CERTIFICATION REGARDING THE USE OF CER-**
2 **TAIN FEDERAL FUNDS AND RESTRICTIONS**
3 **ON SOURCES OF FUNDS FOR RECRUITING**
4 **AND MARKETING ACTIVITIES.**

5 “(a) PROHIBITION.—No Federal funds received
6 under this Act by an institution of higher education or
7 other postsecondary educational institution may be used
8 to pay any person for influencing or attempting to influ-
9 ence an officer or employee of any agency, a Member of
10 Congress, an officer or employee of Congress, or an em-
11 ployee of a Member of Congress in connection with any
12 Federal action described in subsection (b).

13 “(b) APPLICABILITY.—The prohibition in subsection
14 (a) applies with respect to the following Federal actions:

15 “(1) The awarding of any Federal contract.

16 “(2) The making of any Federal grant.

17 “(3) The making of any Federal loan.

18 “(4) The entering into of any Federal coopera-
19 tive agreement.

20 “(5) The extension, continuation, renewal,
21 amendment, or modification of any Federal contract,
22 grant, loan, or cooperative agreement.

23 “(c) LOBBYING AND EARMARKS.—No Federal stu-
24 dent aid funding under this Act may be used to hire a
25 registered lobbyist or pay any person or entity for securing
26 an earmark.

1 “(d) RESTRICTIONS ON SOURCES OF FUNDS FOR RE-
2 CRUITING AND MARKETING ACTIVITIES.—

3 “(1) IN GENERAL.—An institution of higher
4 education, or other postsecondary educational insti-
5 tution, may not use revenues derived from Federal
6 educational assistance funds for recruiting or mar-
7 keting activities.

8 “(2) RULE OF CONSTRUCTION.—Nothing in
9 this section shall be construed as a limitation on the
10 use by an institution of revenues derived from
11 sources other than Federal educational assistance
12 funds.

13 “(3) REPORTS.—Each institution of higher
14 education, or other postsecondary educational insti-
15 tution, that derives 65 percent or more of revenues
16 from Federal educational assistance funds shall re-
17 port annually to the Secretary and to Congress and
18 shall include in such report—

19 “(A) a statement of the institution’s ex-
20 penditures on advertising, marketing, and re-
21 cruiting; and

22 “(B) a verification from an independent
23 auditor that the institution is in compliance
24 with the requirements of this subsection.

1 “(e) CERTIFICATION.—Each institution of higher
 2 education or other postsecondary educational institution
 3 receiving Federal funding under this Act, as a condition
 4 for receiving such funding, shall annually certify to the
 5 Secretary of Education that the requirements of sub-
 6 sections (a) through (d) have been met.

7 “(f) ACTIONS TO IMPLEMENT AND ENFORCE.—The
 8 Secretary shall take such actions as are necessary to en-
 9 sure that the provisions of this section are implemented
 10 and enforced.”.

11 **SEC. 5. WHISTLEBLOWER PROTECTIONS FOR PERSONS AS-**
 12 **SOCIATED WITH INSTITUTIONS OF HIGHER**
 13 **EDUCATION.**

14 (a) WHISTLEBLOWER PROTECTION PROGRAM.—Title
 15 I of the Higher Education Act of 1965 is amended by in-
 16 serting after section 123 (20 U.S.C. 1011l) the following
 17 new section:

18 **“SEC. 124. PROTECTION FROM RETALIATION FOR DISCLO-**
 19 **SURE OF CERTAIN INFORMATION BY PER-**
 20 **SONS ASSOCIATED WITH INSTITUTIONS OF**
 21 **HIGHER EDUCATION.**

22 “(a) PROHIBITION OF RETALIATION.—

23 “(1) IN GENERAL.—An institution of higher
 24 education participating in programs under title IV
 25 (in this section referred to as an ‘institution’) may

1 not discharge, demote, or otherwise discriminate
2 against any person as retaliation for—

3 “(A) such person disclosing to an indi-
4 vidual or entity described in paragraph (2) in-
5 formation such person reasonably believes evi-
6 dences a violation of any law, rule, or regulation
7 by the institution; or

8 “(B) assisting a person disclosing such in-
9 formation or providing information or docu-
10 ments for use in disclosing such information.

11 “(2) INDIVIDUALS AND ENTITIES COVERED.—
12 The individuals and entities described in this para-
13 graph are:

14 “(A) A Member of Congress or a rep-
15 resentative of a committee of Congress.

16 “(B) An Executive agency (as defined in
17 section 105 of title 5, United States Code).

18 “(C) The Government Accountability Of-
19 fice.

20 “(D) A law enforcement agency.

21 “(E) A court or grand jury.

22 “(F) A management official or other em-
23 ployee of an institution who has the responsi-
24 bility to investigate, discover, or address mis-
25 conduct.

1 “(b) INVESTIGATION OF COMPLAINTS.—

2 “(1) SUBMISSION OF COMPLAINT.—A person
3 who believes that they have been subjected to a re-
4 taliation prohibited by subsection (a) may submit a
5 complaint to the Inspector General of the Depart-
6 ment of Education (in this section referred to as the
7 ‘Inspector General’). Unless the Inspector General
8 determines that the complaint is frivolous, fails to
9 allege a violation of subsection (a), or has previously
10 been addressed in another Federal or State judicial
11 or administrative proceeding initiated by the com-
12 plainant, the Inspector General shall investigate the
13 complaint and, upon completion of such investiga-
14 tion, submit a report of the findings of the investiga-
15 tion to the complainant, the institution concerned,
16 and the Secretary.

17 “(2) INSPECTOR GENERAL ACTION.—

18 “(A) DETERMINATION OR SUBMISSION OF
19 REPORT ON FINDINGS.—Except as provided
20 under subparagraph (B), the Inspector General
21 shall make a determination that a complaint is
22 frivolous, fails to allege a violation of subsection
23 (a), or has previously been addressed in another
24 Federal or State judicial or administrative pro-
25 ceeding initiated by the complainant or submit

1 a report under paragraph (1) not later than
2 180 days after receiving the complaint.

3 “(B) EXTENSION OF TIME.—If the Inspec-
4 tor General is unable to complete an investiga-
5 tion in time to submit a report within the 180-
6 day period specified in subparagraph (A) and
7 the complainant agrees to an extension of time,
8 the Inspector General shall submit a report
9 under paragraph (1) within such additional pe-
10 riod of time, up to 180 days, as shall be agreed
11 upon between the Inspector General and the
12 complainant.

13 “(3) PROHIBITION ON DISCLOSURE.—The In-
14 spector General may not respond to any inquiry or
15 disclose any information from or about any person
16 alleging retaliation, except to the extent that such
17 response or disclosure is—

18 “(A) made with the consent of the person
19 alleging the retaliation;

20 “(B) made in accordance with the provi-
21 sions of section 552a of title 5, United States
22 Code, or as required by any other applicable
23 Federal law; or

24 “(C) necessary to conduct an investigation
25 of the alleged retaliation.

1 “(4) TIME LIMITATION.—A complaint may not
2 be brought under this subsection more than three
3 years after the date on which the alleged retaliation
4 took place.

5 “(c) REMEDY AND ENFORCEMENT AUTHORITY.—

6 “(1) IN GENERAL.—Not later than 30 days
7 after receiving an Inspector General report pursuant
8 to subsection (b), the Secretary shall determine
9 whether there is sufficient basis to conclude that the
10 institution has violated subsection (a) and shall ei-
11 ther issue an order denying relief or shall take one
12 or more of the following actions:

13 “(A) Order the institution to take action to
14 abate the retaliation.

15 “(B) Order the institution to reinstate the
16 complainant to the position that the complain-
17 ant held before the retaliation, together with
18 compensatory damages (including back pay)
19 and any other benefits, terms, or conditions
20 that would apply to the complainant in that po-
21 sition if the retaliation had not occurred.

22 “(C) Order the institution to pay the com-
23 plainant an amount equal to the aggregate
24 amount of all costs and expenses (including at-
25 torneys’ fees and expert witness fees) that were

1 reasonably incurred by the complainant for, or
2 in connection with, bringing the complaint re-
3 garding the retaliation, as determined by the
4 Secretary.

5 “(2) EXHAUSTION OF REMEDIES.—If the Sec-
6 retary issues an order denying relief under para-
7 graph (1) or has not issued an order within 210
8 days after the submission of a complaint under sub-
9 section (b), or in the case of an extension of time
10 under subsection (b)(2)(B), not later than 30 days
11 after the expiration of the extension of time, and
12 there is no showing that such delay is due to the bad
13 faith of the complainant, the complainant shall be
14 deemed to have exhausted all administrative rem-
15 edies with respect to the complaint, and the com-
16 plainant may bring a de novo action at law or equity
17 against the institution to seek compensatory dam-
18 ages and other relief available under this section in
19 the appropriate district court of the United States,
20 which shall have jurisdiction over such an action
21 without regard to the amount in controversy. Such
22 an action shall, at the request of either party to the
23 action, be tried by the court with a jury. An action
24 under this paragraph may not be brought more than

1 two years after the date on which remedies are
2 deemed to have been exhausted.

3 “(3) ADMISSIBILITY OF EVIDENCE.—The In-
4 spector General determination and order of the Sec-
5 retary denying relief under paragraph (2) shall be
6 admissible in evidence in any de novo action at law
7 or equity brought pursuant to this subsection.

8 “(4) ENFORCEMENT OF ORDERS.—Whenever a
9 person fails to comply with an order issued under
10 paragraph (1), the Secretary shall file an action for
11 enforcement of such order in the United States dis-
12 trict court for a district in which the retaliation was
13 found to have occurred. In any action brought under
14 this paragraph, the court may grant appropriate re-
15 lief, including injunctive relief, compensatory and ex-
16 emplary damages, and attorneys’ fees and costs. The
17 person upon whose behalf an order was issued may
18 also file such an action or join in an action filed by
19 the Secretary.

20 “(5) JUDICIAL REVIEW.—Any person adversely
21 affected or aggrieved by an order issued under para-
22 graph (1) may obtain review of the order’s conform-
23 ance with this subsection, and any regulations issued
24 to carry out this section, in the United States court
25 of appeals for a circuit in which the retaliation is al-

1 leged in the order to have occurred. No petition
2 seeking such review may be filed more than 60 days
3 after issuance of the order by the head of the execu-
4 tive agency. Such review shall conform to chapter 7
5 of title 5, United States Code. Filing such an appeal
6 shall not act to stay the enforcement of the order of
7 the Secretary, unless a stay is specifically entered by
8 the court.

9 “(6) BURDENS OF PROOF.—The legal burdens
10 of proof specified in section 1221(e) of title 5,
11 United States Code, shall be controlling for the pur-
12 poses of any investigation conducted by the Inspec-
13 tor General, decision by the Secretary, or judicial or
14 administrative proceeding to determine whether dis-
15 crimination prohibited under this section has oc-
16 curred.

17 “(7) RIGHTS AND REMEDIES NOT WAIVABLE.—
18 The rights and remedies provided for in this section
19 may not be waived by any agreement, policy, form,
20 or condition of employment.

21 “(d) NOTIFICATION OF PERSONS ASSOCIATED WITH
22 INSTITUTION.—The Secretary shall ensure that each insti-
23 tution informs the employees, students, and contractors
24 of the institution in writing of the rights and remedies
25 provided under this section.

1 “(e) CONSTRUCTION.—Nothing in this section may
 2 be construed to authorize the discharge of, demotion of,
 3 or discrimination against a person for a disclosure other
 4 than a disclosure protected by subsection (a) or to modify
 5 or derogate from a right or remedy otherwise available
 6 such person.”.

7 (b) PROHIBITION OF RETALIATION.—Section 487(a)
 8 of the Higher Education Act of 1965 (20 U.S.C. 1094(a))
 9 is amended by adding at the end the following new para-
 10 graph:

11 “(30) The institution will comply with the re-
 12 quirements of section 124.”.

13 **SEC. 6. ESTABLISHMENT OF COMPLAINT RESOLUTION AND**
 14 **TRACKING SYSTEM.**

15 Title I of the Higher Education Act of 1965 (20
 16 U.S.C. 1001 et seq.) is amended by adding at the end
 17 the following new part:

18 **“PART F—COMPLAINT TRACKING SYSTEM**

19 **“SEC. 161. COMPLAINT TRACKING SYSTEM.**

20 “(a) ESTABLISHMENT OF COMPLAINT TRACKING
 21 SYSTEM.—

22 “(1) ESTABLISHMENT OF COMPLAINT TRACK-
 23 ING SYSTEM.—Not later than 1 year after the enact-
 24 ment of the PRO Students Act, the Secretary shall
 25 complete the establishment of a complaint tracking

1 system that includes a single, toll-free telephone
2 number and a website to facilitate the centralized
3 collection of, monitoring of, and response to com-
4 plaints or inquiries regarding the educational prac-
5 tices and services, and recruiting and marketing
6 practices, of all postsecondary educational institu-
7 tions.

8 “(2) ESTABLISHMENT OF COMPLAINT TRACK-
9 ING OFFICE.—The Secretary shall establish within
10 the Department an office whose functions shall in-
11 clude establishing, administering, and disseminating
12 widely information about the complaint tracking sys-
13 tem established under paragraph (1). The Secretary
14 shall—

15 “(A) to the extent necessary, combine and
16 consolidate the other offices and functions of
17 the Department to ensure that the office estab-
18 lished under this paragraph is the single point
19 of contact for students and borrowers with com-
20 plaints; and

21 “(B) to the extent practicable, ensure that
22 the office established in this paragraph will
23 work with the Student Loan Ombudsman ap-
24 pointed in accordance with section 141(f) to as-
25 sist borrowers that have complaints regarding

1 the educational practices and services, and re-
2 cruiting and marketing practices, of postsec-
3 ondary educational institutions.

4 “(b) HANDLING OF COMPLAINTS.—

5 “(1) TIMELY RESPONSE TO COMPLAINTS.—The
6 Secretary shall establish, in consultation with the
7 heads of appropriate agencies, reasonable procedures
8 to provide a timely response to complainants, in
9 writing where appropriate, to complaints against, or
10 inquiries concerning, an institution of higher edu-
11 cation that receives funds under this Act. Each re-
12 sponse shall include a description of—

13 “(A) the steps that have been taken by the
14 Secretary in response to the complaint or in-
15 quiry;

16 “(B) any responses received by the Sec-
17 retary from the institution of higher education;
18 and

19 “(C) any additional actions that the Sec-
20 retary has taken, or plans to take, in response
21 to the complaint or inquiry.

22 “(2) TIMELY RESPONSE TO SECRETARY BY IN-
23 STITUTION OF HIGHER EDUCATION.—The Secretary
24 shall notify each institution of higher education that
25 receives funds under this Act and that is the subject

1 of a complaint or inquiry under this section regard-
2 ing the complaint or inquiry. Not later than 60 days
3 after receiving such notice, such institution shall
4 provide a response to the Secretary concerning the
5 complaint or inquiry, including—

6 “(A) the steps that have been taken by the
7 institution to respond to the complaint or in-
8 quiry;

9 “(B) all responses received by the institu-
10 tion from the complainant; and

11 “(C) any additional actions that the insti-
12 tution has taken, or plans to take, in response
13 to the complaint or inquiry.

14 “(3) FURTHER INVESTIGATION.—The Secretary
15 may, in the event that the complaint is not ade-
16 quately resolved or addressed by the responses of the
17 institution of higher education receiving funds under
18 this Act under paragraph (2), ask additional ques-
19 tions of such institution or seek additional informa-
20 tion from or action by the institution.

21 “(4) PROVISION OF INFORMATION.—

22 “(A) IN GENERAL.—An institution of high-
23 er education that receives funds under this Act
24 shall, in a timely manner, comply with a re-
25 quest by the Secretary for information in the

1 control or possession of such institution con-
2 cerning a complaint or inquiry received by the
3 Secretary under subsection (a), including sup-
4 porting written documentation, subject to sub-
5 paragraph (B).

6 “(B) EXCEPTIONS.—An institution of
7 higher education that receives funds under this
8 Act shall not be required to make available
9 under this subsection—

10 “(i) any nonpublic or confidential in-
11 formation, including any confidential com-
12 mercial information;

13 “(ii) any information collected by the
14 institution for the purpose of preventing
15 fraud or detecting or making any report
16 regarding other unlawful or potentially un-
17 lawful conduct; or

18 “(iii) any information required to be
19 kept confidential by any other provision of
20 law.

21 “(5) COMPLIANCE.—An institution of higher
22 education that receives funds under this Act shall
23 comply with the requirements to provide responses
24 and information, in accordance with this subsection,
25 as a condition of receiving such funds.

1 “(c) TRANSPARENCY.—

2 “(1) SHARING INFORMATION WITH FEDERAL
3 AND STATE AGENCIES.—As appropriate and in ac-
4 cordance with section 444 of the General Education
5 Provisions Act (20 U.S.C. 1232g) (commonly re-
6 ferred to as the “Family Educational Rights and
7 Privacy Act of 1974”) and other laws, the Secretary
8 shall coordinate with the heads of relevant Federal
9 and State agencies to—

10 “(A) collect complaints related to the com-
11 plaint tracking system described in subsection
12 (b) from such agencies; and

13 “(B) when appropriate, route such com-
14 plaints to the Department of Education, the
15 Department of Justice, the Department of De-
16 fense, the Department of Veterans Affairs, the
17 Federal Trade Commission, the Consumer Fi-
18 nancial Protection Bureau, or any equivalent
19 State agency.

20 “(2) INTERACTION WITH EXISTING COMPLAINT
21 SYSTEMS.—To the extent practicable, all procedures
22 established under this section, and all coordination
23 carried out under paragraph (1), shall be done in ac-
24 cordance with the complaint tracking systems estab-
25 lished under Executive Order 13607 (77 Fed. Reg.

1 25861; relating to establishing principles of excel-
2 lence for educational institutions serving
3 servicemembers, veterans, spouses, and other family
4 members).

5 “(3) PUBLIC INFORMATION.—

6 “(A) IN GENERAL.—The Secretary shall
7 regularly publish on the website of the Depart-
8 ment information on the complaints and inquir-
9 ies received for each postsecondary educational
10 institution under this section, including—

11 “(i) the number of complaints and in-
12 quiries received;

13 “(ii) the types of complaints and in-
14 quiries received; and

15 “(iii) where applicable, information
16 about the resolution of the complaints and
17 inquiries.

18 “(B) DATA PRIVACY.—In carrying out sub-
19 paragraph (A), the Secretary shall—

20 “(i) comply with applicable data pri-
21 vacy laws and regulations; and

22 “(ii) ensure that personally identifi-
23 able information is not shared.

1 “(4) REPORTS.—Each year, the Secretary shall
2 prepare and submit to the authorizing committees a
3 report describing—

4 “(A) the types and nature of complaints
5 the Secretary has received under this section;

6 “(B) the extent to which complainants are
7 receiving relief pursuant to this section;

8 “(C) whether particular types of com-
9 plaints are more common in a given sector of
10 postsecondary educational institutions;

11 “(D) any legislative recommendations that
12 the Secretary determines are necessary to bet-
13 ter assist students and families; and

14 “(E) the schools with the highest volume
15 of complaints, as determined by the Secretary.

16 “(d) COMPLAINANT DEFINED.—In this section, the
17 term ‘complainant’ means a person with a complaint
18 against, or inquiry concerning, an institution of higher
19 education that receives funds under this Act who is—

20 “(1) a student of a postsecondary educational
21 institution;

22 “(2) a family member of a student of a postsec-
23 ondary educational institution;

24 “(3) a third party acting on behalf of a student
25 of a postsecondary educational institution; or

1 “(4) a staff member or employee of a postsec-
 2 ondary educational institution.”.

3 **SEC. 7. IMPROVED DETERMINATION OF COHORT DEFAULT**
 4 **RATES; PUBLICATION OF DEFAULT PREVEN-**
 5 **TION PLAN.**

6 Section 435 of the Higher Education Act of 1965 (20
 7 U.S.C. 1085) is amended—

8 (1) in subsection (a)—

9 (A) in paragraph (2), by adding at the end
 10 the following new subparagraph:

11 “(D) In any case where the Secretary has de-
 12 termined that the institution has engaged in default
 13 manipulation, the Secretary—

14 “(i) shall recalculate the cohort default
 15 rate for the institution under this section using
 16 corrected data and information, for all fiscal
 17 years for which the default manipulation has
 18 occurred; and

19 “(ii) using the recalculated cohort default
 20 rate, shall redetermine under subsection (a)(2)
 21 whether the institution is ineligible to partici-
 22 pate in a program under this title.”; and

23 (B) in paragraph (7)(A), by adding at the
 24 end the following new clause:

1 “(iii) SUMMARY OF DEFAULT PRE-
 2 VENTION PLAN.—Upon receiving technical
 3 assistance from the Secretary under clause
 4 (ii), each institution subject to this sub-
 5 paragraph shall—

6 “(I) prepare a summary of the
 7 plan described under clause (i) that is
 8 directed to a student audience;

9 “(II) make the summary publicly
 10 available; and

11 “(III) provide the summary to
 12 students at the institution.”; and

13 (2) in subsection (m)(3), by striking “through
 14 the use of” and all that follows through the period
 15 at the end and inserting “through default manipula-
 16 tion”.

17 **SEC. 8. AMENDMENTS TO TERMS AND CONDITIONS OF BOR-**
 18 **ROWER DEFENSES.**

19 Section 455(h) of the Higher Education Act of 1965
 20 (20 U.S.C. 1087e(h)) is amended to read as follows:

21 “(h) BORROWER DEFENSES.—

22 “(1) IN GENERAL.—Notwithstanding any other
 23 provision of State or Federal law, a defense to re-
 24 payment of a loan under this title includes—

1 “(A) a substantial misrepresentation under
2 section 487(c)(3);

3 “(B) an act or omission that would give
4 rise to a cause of action against the school
5 under applicable State law; or

6 “(C) such further acts or omissions that
7 the Secretary determines appropriate.

8 “(2) PROCEDURES.—

9 “(A) IN GENERAL.—The Secretary shall,
10 with respect to a borrower defense under this
11 subsection—

12 “(i) determine the entitlement of a
13 borrower to relief based on all evidence
14 available to the Department; and

15 “(ii) provide an expeditious and fair
16 process to consider applications provided
17 by individuals, groups, and representatives
18 on behalf of groups.

19 “(B) INDEPENDENT DETERMINATION.—A
20 determination under subparagraph (A)(i) shall
21 be independent of any action that the Depart-
22 ment may take to recoup from the school re-
23 lated to the borrower defense.

24 “(C) CANCELLATION OF DEBT.—If the
25 Secretary determines under subparagraph

1 (A)(i) that a borrower is entitled to relief, the
 2 Secretary shall cancel all outstanding debt, and
 3 return any payments made on the loans of such
 4 borrower.

5 “(3) REGULATIONS.—The Secretary shall speci-
 6 fy in regulations which acts or omissions of an insti-
 7 tution of higher education a borrower may assert as
 8 a defense to repayment of a loan made under this
 9 part, except that in no event may a borrower recover
 10 from the Secretary, in any action arising from or re-
 11 lating to a loan made under this part, an amount in
 12 excess of the amount such borrower has repaid on
 13 such loan.”.

14 **SEC. 9. IMPROVED STUDENT LOAN SERVICING AND DEBT**
 15 **COLLECTION PRACTICES.**

16 Section 456 of the Higher Education Act of 1965 (20
 17 U.S.C. 1087f) is amended by adding at the end the fol-
 18 lowing new subsection:

19 “(c) NO PREDISPUTE ARBITRATION CLAUSES.—A
 20 contract entered into under this section for the servicing
 21 of loans made or purchased under this part shall include
 22 a provision that any rights and remedies available to bor-
 23 rowers against the servicer may not be waived by any
 24 agreement, policy, or form, including by a predispute arbi-
 25 tration agreement.”.

1 **SEC. 10. IMPROVED DISCLOSURES, COUNSELING, AND FI-**
2 **NANCIAL ASSISTANCE INFORMATION FOR**
3 **STUDENTS.**

4 Section 485(l) of the Higher Education Act of 1965
5 (20 U.S.C. 1092(l)) is amended—

6 (1) by striking paragraph (1) and inserting the
7 following new paragraph:

8 “(1) DISCLOSURE REQUIRED PRIOR TO SIGNING
9 MASTER PROMISSORY NOTE.—Each eligible institu-
10 tion shall, prior to obtaining or arranging execution
11 of a master promissory note for a loan under part
12 D (other than a Federal Direct Consolidation Loan)
13 by a first-time borrower at such institution, ensure
14 that the borrower receives comprehensive informa-
15 tion on the terms and conditions of the loan and of
16 the responsibilities the borrower has with respect to
17 such loan in accordance with paragraph (2). Such
18 information—

19 “(A) shall be provided through the use of
20 interactive programs that include mechanisms
21 to check the borrower’s comprehension of the
22 terms and conditions of the borrower’s loans
23 under part D, using simple and understandable
24 language and clear formatting; and

25 “(B) shall be provided—

1 “(i) during an entrance counseling
2 session conducted in person; or

3 “(ii) online.”; and

4 (2) in paragraph (2), by adding at the end the
5 following new subparagraph:

6 “(L) Information relating to the institu-
7 tion’s cohort default rate, including—

8 “(i) the cohort default rate, as defined
9 in section 435(m), of the institution;

10 “(ii) an easy to understand expla-
11 nation of the cohort default rate;

12 “(iii) the percentage of students at
13 the institution of higher education who
14 borrow Federal student loans under this
15 title;

16 “(iv) the national average cohort de-
17 fault rate (as determined by the Secretary
18 in accordance with section 435(m));

19 “(v) in the case of an institution with
20 a cohort default rate that is greater than
21 the national average cohort default rate (as
22 described in clause (iv)), a disclosure to the
23 student that the institution’s cohort de-
24 fault rate is above the national average;
25 and

1 “(vi) in the case of an institution with
 2 a cohort default rate that is greater than
 3 30 percent, a disclosure to the students
 4 that if the cohort default rate remains
 5 greater than 30 percent for the 3 consecu-
 6 tive years—

7 “(I) the institution will lose insti-
 8 tutional eligibility for the purposes of
 9 programs authorized under this title;
 10 and

11 “(II) the student will no longer
 12 be able to receive Federal financial aid
 13 at that institution.”.

14 **SEC. 11. PROGRAM PARTICIPATION AGREEMENTS.**

15 (a) SENSE OF CONGRESS REGARDING INCENTIVE
 16 COMPENSATION.—It is the sense of Congress that—

17 (1) incentive compensation is an inappropriate
 18 mechanism in the delivery of higher education for in-
 19 stitutions of higher education wishing to participate
 20 in programs under title IV of the Higher Education
 21 Act of 1965 (20 U.S.C. 1001 et seq.); and

22 (2) the ban on incentive compensation under
 23 section 487(a)(20) of the Higher Education Act of
 24 1965 (20 U.S.C. 1094(a)(20)), as amended by sub-
 25 section (b), is intended to preclude its use by institu-

1 tions wishing to participate in such programs, at any
2 point in the recruitment, enrollment, education, or
3 employment placement of students.

4 (b) AMENDMENTS.—Section 487 of the Higher Edu-
5 cation Act of 1965 (20 U.S.C. 1094) is amended—

6 (1) in subsection (a)—

7 (A) in paragraph (19), by inserting “hous-
8 ing facilities,” after “libraries,”;

9 (B) by striking paragraph (20) and insert-
10 ing the following:

11 “(20)(A) The institution or any third party act-
12 ing on the institution’s behalf, including an institu-
13 tion affiliate or service provider to the institution,
14 will not provide any commission, bonus, or other in-
15 centive payment to any person or entity at any
16 phase of the academic process based directly or indi-
17 rectly on success in—

18 “(i) securing enrollments or securing or award-
19 ing financial aid;

20 “(ii) performance in educational coursework;

21 “(iii) graduation;

22 “(iv) job placement; or

23 “(v) any other academic facet of a student’s en-
24 rollment in an institution of higher education.

1 “(B) The requirements of subparagraph (A) shall not
2 apply to the recruitment of foreign students residing in
3 foreign countries who are not eligible to receive Federal
4 student assistance.”; and

5 (C) by adding at the end the following new
6 paragraphs:

7 “(30)(A) The institution—

8 “(i) shall not include a predispute arbitra-
9 tion agreement in any contract with a student
10 or prospective student for enrollment at the in-
11 stitution; and

12 “(ii) shall agree that, in any case where a
13 contract for enrollment at the institution en-
14 tered into by a student before the date of enact-
15 ment of the Protections and Regulation for Our
16 Students Act included a predispute arbitration
17 agreement, such agreement shall be invalid and
18 unenforceable by the institution.

19 “(B) In this paragraph, the term ‘predispute
20 arbitration agreement’ means any agreement to arbi-
21 trate a dispute that had not yet arisen at the time
22 of the making of the agreement.

23 “(31)(A) If the institution has a student default
24 risk for a fiscal year, as calculated by the Secretary,

1 of 0.1 or greater, the institution will, for such
2 year—

3 “(i) provide an individual accepted for en-
4 rollment at the institution with a waiting pe-
5 riod, beginning on the date that the individual
6 receives notification of the acceptance and last-
7 ing for not less than 2 weeks, before the indi-
8 vidual is required to enroll in the institution,
9 pay tuition charges, or sign a master promis-
10 sory note for a loan under this title, in order to
11 give the individual time to consider, and com-
12 pare among postsecondary options, program
13 costs at the institution and employment pros-
14 pects upon completion of a program of study;

15 “(ii) ensure that the receipt of financial
16 aid, incentives, or other benefits is not made
17 contingent on an individual confirming enroll-
18 ment before the end of the individual’s waiting
19 period;

20 “(iii) inform the individual, in writing and
21 in a manner determined by the Secretary at the
22 time of the acceptance notification, of—

23 “(I) the individual’s right to the 2-
24 week waiting period under clause (i) begin-

1 ning on the date that the individual re-
2 ceives notification of the acceptance; and

3 “(II) the reason why the institution is
4 required to provide such waiting period;

5 “(iv) notify an individual accepted for en-
6 rollment at the institution of all financial aid
7 determinations by not less than 1 week before
8 the enrollment confirmation deadline, if all re-
9 quested application forms are received from the
10 individual on time; and

11 “(v) disclose to an individual accepted for
12 enrollment, in a manner determined by the Sec-
13 retary, that the individual may file a complaint
14 through the complaint tracking system estab-
15 lished under section 161 if the individual be-
16 lieves that the institution has violated any pro-
17 vision of this paragraph.

18 “(B) If an institution described in subpara-
19 graph (A) fails to meet the requirements of this
20 paragraph, the institution shall be subject to a civil
21 penalty in accordance with section 489A.

22 “(C) Notwithstanding subparagraph (A), the
23 Secretary may, after providing notice and an oppor-
24 tunity to comment, elect to replace the use of the
25 student default risk percentage threshold established

1 under subparagraph (A) with a loan repayment rate
 2 threshold calculated in accordance with section
 3 483D(b).”; and

4 (2) in subsection (c)(1)(A)(i), by striking
 5 “available” and inserting “made publicly available
 6 and provided”.

7 **SEC. 12. IMPROVED DISCLOSURES FOR CLINICAL TRAIN-**
 8 **ING PROGRAMS.**

9 Section 485 of the Higher Education Act of 1965 (20
 10 U.S.C. 1092) is amended by adding at the end the fol-
 11 lowing new subsection:

12 “(n) REPORTS RELATING TO CLINICAL TRAINING
 13 PROGRAMS.—

14 “(1) REPORT ON CLINICAL TRAINING PROGRAM
 15 AGREEMENTS.—

16 “(A) IN GENERAL.—Beginning in the year
 17 in which the Protections and Regulation for
 18 Our Students Act is enacted, an eligible institu-
 19 tion that participates in any program under this
 20 title shall prepare and submit a report to the
 21 Secretary containing the information described
 22 in subparagraph (C), for every year in which
 23 the eligible institution has an agreement with a
 24 hospital or health facility, through which—

1 “(i) the eligible institution agrees to
2 provide funding or other benefits to the
3 hospital or health facility; and

4 “(ii) that hospital or health facility
5 provides opportunities for students at the
6 institution to participate in a clinical train-
7 ing program.

8 “(B) TIMING.—Following the year in
9 which the Protections and Regulation for Our
10 Students Act is enacted, the report described in
11 this paragraph shall be submitted not more
12 than 30 days after the end of any year for
13 which a report is required to comply with sub-
14 paragraph (A).

15 “(C) CONTENTS OF REPORT.—The report
16 described in this paragraph shall include the
17 following:

18 “(i) The amount of any payments
19 from the institution of higher education to
20 a hospital or health facility during the pe-
21 riod covered by the report, and the precise
22 terms of any agreement under which such
23 amounts are determined.

24 “(ii) Any conditions associated with
25 the transfer of money or the provision of

1 clinical training program opportunities
2 that are part of the agreement described in
3 subparagraph (A).

4 “(iii) Any memorandum of under-
5 standing between the institution of higher
6 education, or an alumni association or
7 foundation affiliated with or related to
8 such institution, and a hospital or health
9 facility, that directly or indirectly relates to
10 any aspect of any agreement referred to in
11 subparagraph (A) or controls or directs
12 any obligations or distribution of benefits
13 between or among any such entities.

14 “(iv) For each hospital or health facil-
15 ity that has an agreement described in
16 subparagraph (A) with the institution, the
17 number of clinical training positions at the
18 hospital or health facility that are reserved
19 for students at that institution.

20 “(2) REPORT ON CHARITABLE DONATIONS.—

21 “(A) IN GENERAL.—Beginning in the year
22 in which the Protections and Regulation for
23 Our Students Act is enacted, and annually
24 thereafter, an eligible institution shall prepare
25 and submit to the Secretary a report containing

1 the information described in subparagraph (C)
2 if—

3 “(i) the eligible institution made a
4 charitable donation to a hospital or health
5 facility in any of the previous 3 years; and

6 “(ii) the number of students from the
7 eligible institution who participate in any
8 clinical training program at the hospital or
9 health facility where such a donation was
10 made increases by more than 5 students or
11 10 percent, whichever is less, as compared
12 to the number of such students who par-
13 ticipated in a clinical training program at
14 that hospital or health facility during the
15 first year in the previous 3-year period.

16 “(B) TIMING.—Following the year in
17 which the Protections and Regulation for Our
18 Students Act is enacted, the report described in
19 subparagraph (A) shall be submitted not more
20 than 30 days after the end of any year for
21 which a report is required to comply with sub-
22 paragraph (A).

23 “(C) CONTENTS OF REPORT.—The report
24 described in this paragraph shall include the
25 following:

1 “(i) The amount of each charitable
2 donation that was made in the previous 3-
3 year period by the eligible institution to a
4 hospital or health facility.

5 “(ii) The number of students from the
6 eligible institution who participate in any
7 clinical training program at the hospital or
8 health facility where each such donation
9 was made—

10 “(I) during the year in which the
11 report is submitted; and

12 “(II) during the first year in the
13 previous 3-year period covered by the
14 report.

15 “(3) AGGREGATION BY INSTITUTION.—The in-
16 formation required to be reported in this subsection
17 shall include, and shall be aggregated with respect
18 to, each institution of higher education and each
19 alumni association or foundation affiliated with or
20 related to such institution. For any year in which an
21 institution is required to submit a report described
22 under paragraph (1) and a report described under
23 paragraph (2), the institution may submit a single
24 report for that year containing all of the information
25 required under paragraphs (1) and (2).

1 “(4) REPORT TO CONGRESS.—The Secretary, in
2 conjunction with the Secretary of Health and
3 Human Services, shall submit to Congress, and
4 make available to the public, an annual report that
5 lists the reports submitted to the Secretary by each
6 institution of higher education in accordance with
7 this subsection.

8 “(5) PUBLIC DISCLOSURE.—Each eligible insti-
9 tution described in paragraph (1) or (2) of this sub-
10 section shall make readily available the reports de-
11 scribed in such paragraph (as applicable), through
12 appropriate publications, mailings, and electronic
13 media to the general public.

14 “(6) DEFINITIONS.—In this subsection:

15 “(A) CLINICAL TRAINING PROGRAM.—The
16 term ‘clinical training program’ means any pro-
17 gram at, or associated or affiliated with, a hos-
18 pital or health facility (or any of a hospital’s af-
19 filiates or health facility’s affiliates), the com-
20 pletion of which fulfills a requirement that is
21 necessary to receive a license, certificate, spe-
22 cialized accreditation, or other academically re-
23 lated pre-condition necessary under Federal or
24 State law for a health profession.

1 “(B) HEALTH FACILITY.—The term
2 ‘health facility’ has the meaning given that
3 term in section 804(d).

4 “(C) HOSPITAL.—The term ‘hospital’ has
5 the meaning given that term in section 1861 of
6 the Social Security Act (42 U.S.C. 1395x).”.

7 **SEC. 13. CIVIL PENALTIES.**

8 Part G of title IV of the Higher Education Act of
9 1965 (20 U.S.C. 1088 et seq.) is amended by inserting
10 after section 489 the following new section:

11 **“SEC. 489A. CIVIL PENALTIES AND OTHER REMEDIES.**

12 “(a) SANCTIONS FOR SUBSTANTIAL MISREPRESENTATIONS OR
13 SERIOUS VIOLATIONS.—

14 “(1) CIVIL PENALTIES.—The Secretary may
15 impose a civil penalty upon an eligible institution
16 upon making a determination, after reasonable notice and
17 opportunity for a hearing, that an eligible institution has
18 engaged in a substantial misrepresentation or other serious
19 violation.

20 “(2) AMOUNT OF CIVIL PENALTIES.—A civil
21 penalty imposed for a violation under subparagraph
22 (A) shall be not less than \$100,000 or—

23 “(A) in the case of a first violation, an
24 amount equal to the product of \$1,000,000

1 multiplied by the institution's student default
2 risk, whichever is larger;

3 “(B) in the case of a second violation, an
4 amount equal to the product of \$2,000,000
5 multiplied by the institution's student default
6 risk, whichever is larger; and

7 “(C) in the case of a third or subsequent
8 violation, an amount equal to the product of
9 \$3,000,000 multiplied by the institution's stu-
10 dent default risk, whichever is larger.

11 “(3) TREATMENT OF MULTIPLE INSTITU-
12 TIONS.—For the purpose of determining the number
13 of violations for subparagraph (B), any violation by
14 a particular institution will accrue against all identi-
15 fication codes used by the Office of Postsecondary
16 Education to designate campuses and institutions
17 affiliated with the institution, and within the period
18 of participation for the institution, as defined in sec-
19 tion 668.13(b) of title 34, Code of Federal Regula-
20 tions, or any successor regulation.

21 “(b) SANCTIONS FOR OTHER VIOLATIONS OF THIS
22 TITLE.—Upon determination, after reasonable notice and
23 opportunity for a hearing, that an eligible institution has
24 engaged in a violation of any other provision of this title,
25 including the failure to carry out any provision of this

1 title, that is not a significant misrepresentation or other
2 serious violation, the Secretary may impose a civil penalty
3 upon such institution of not more than \$100,000 (subject
4 to such adjustments for inflation as the Secretary may
5 prescribe by regulation) for each such violation.

6 “(c) CIVIL PENALTIES AND SANCTIONS FOR OFFI-
7 CERS OF INSTITUTIONS.—Upon determination, after rea-
8 sonable notice and an opportunity for a hearing on the
9 record, that an officer of an institution of higher education
10 that participates in a program under this title has know-
11 ingly and willfully, or with gross negligence, violated a pro-
12 vision of this title, the Secretary may sanction the officer.
13 Such sanctions may include the following:

14 “(1) Prohibiting the institution of higher edu-
15 cation that has employed the officer of an institution
16 of higher education and that participates in a pro-
17 gram under this title, or any other institution of
18 higher education that participates in a program
19 under this title, from employing the officer, except
20 that any such prohibition under this subsection shall
21 not be for a period of more than 5 years from the
22 date of the determination of the violation.

23 “(2) Assessing a civil penalty against an officer
24 of an institution of higher education who has know-
25 ingly and willfully, or with gross negligence, violated

1 a provision of this title, except that any such civil
2 penalty under this subsection shall not be greater
3 than the amount of the officer's compensation for
4 each year for which the violations are determined to
5 have occurred. For purposes of this subparagraph,
6 an officer's compensation shall include proceeds of
7 any sales of stock and any incentive-based com-
8 pensation (including stock options awarded as com-
9 pensation) based on information required to be re-
10 ported to the Secretary or any other Federal agency
11 during the period in which the violations are deter-
12 mined to have occurred.

13 “(d) LIMITATION, SUSPENSION, OR TERMINATION OF
14 ELIGIBILITY STATUS.—

15 “(1) IN GENERAL.—Upon determination, after
16 reasonable notice and opportunity for a hearing, that
17 an eligible institution has engaged in a violation of
18 any provision of this title (including the failure to
19 carry out any provision of this title or any regulation
20 prescribed under such provision) or a violation of
21 any applicable special arrangement, agreement, or
22 limitation, the Secretary may limit, suspend, or ter-
23minate the participation in any program under this
24title of an eligible institution, subject to the require-
25ments of paragraph (2).

1 “(2) SUSPENSION PROCEDURES.—No period of
2 suspension under this section shall exceed 60 days
3 unless the institution and the Secretary agree to an
4 extension or unless limitation or termination pro-
5 ceedings are initiated by the Secretary within that
6 period of time.

7 “(e) EMERGENCY ACTION.—

8 “(1) IN GENERAL.—The Secretary may take an
9 emergency action against an institution, under which
10 the Secretary shall, effective on the date on which a
11 notice and statement of the basis of the action is
12 mailed to the institution (by registered mail, return
13 receipt requested), withhold funds from the institu-
14 tion or its students and withdraw the institution’s
15 authority to obligate funds under any program
16 under this title, if the Secretary—

17 “(A) receives information, determined by
18 the Secretary to be reliable, that the institution
19 is violating any provision of this title, any regu-
20 lation prescribed under this title, or any appli-
21 cable special arrangement, agreement, or limita-
22 tion;

23 “(B) determines that immediate action is
24 necessary to prevent misuse of Federal funds;
25 and

1 “(C) determines that the likelihood of loss
2 outweighs the importance of the procedures pre-
3 scribed in subsection (e) for limitation, suspen-
4 sion, or termination.

5 “(2) TIME LIMITATION.—An emergency action
6 described in paragraph (1) shall not exceed 30 days
7 unless limitation, suspension, or termination pro-
8 ceedings are initiated by the Secretary against the
9 institution within that period of time.

10 “(3) OPPORTUNITY TO SHOW CAUSE.—The Sec-
11 retary shall provide an institution that is the subject
12 of an emergency action under this subsection an op-
13 portunity to show cause, if the institution so re-
14 quests, that the emergency action is unwarranted
15 and should be lifted.

16 “(f) LIFTING OF SANCTIONS.—Notwithstanding any
17 other provision of this title, an institution of higher edu-
18 cation that has been sanctioned by the Secretary under
19 this section or any other provision of this title may not
20 have such sanctions lifted until the Secretary has con-
21 ducted a subsequent program review under section 498A
22 and has found the institution to be in compliance with this
23 title.

24 “(g) SINGLE COURSE OF CONDUCT; COMPROMISE
25 AUTHORITY AND COLLECTION OF PENALTY.—

1 “(1) SAME COURSE OF CONDUCT.—For pur-
 2 poses of this section, acts and omissions relating to
 3 a single course of conduct shall be treated as a sin-
 4 gle violation.

5 “(2) COMPROMISE AUTHORITY.—Any civil pen-
 6 alty under this section may be compromised (but not
 7 eliminated) by the Secretary. In determining the
 8 amount of such penalty, or the amount agreed upon
 9 in compromise, the Secretary shall consider—

10 “(A) the appropriateness of the penalty to
 11 the size of the institution of higher education
 12 subject to the determination; and

13 “(B) the gravity of the violation, failure, or
 14 misrepresentation.

15 “(h) COLLECTION OF PENALTY.—The amount of any
 16 penalty under this section may be deducted from any sums
 17 owing by the United States to the institution charged.

18 “(i) DISPOSITION OF AMOUNTS RECOVERED.—

19 “(1) IN GENERAL.—Amounts collected under
 20 this section shall be transferred to the Secretary,
 21 who shall determine the distribution of collected
 22 amounts, in accordance with paragraphs (2) and (3).

23 “(2) USE FOR PROGRAM INTEGRITY EFFORTS
 24 AND PROGRAM REVIEWS.—

1 “(A) IN GENERAL.—For each fiscal year,
2 an amount equal to not more than 50 percent
3 of the amounts recovered or collected under this
4 section—

5 “(i) shall be available to the Secretary
6 to carry out program reviews under section
7 498A and other efforts by the Secretary
8 related to program integrity under part H;
9 and

10 “(ii) may be credited, if applicable, for
11 that purpose by the Secretary to any ap-
12 propriations and funds that are available
13 to the Secretary for obligation at the time
14 of collection.

15 “(B) SUPPLEMENT NOT SUPPLANT.—
16 Amounts made available under subparagraph
17 (A) shall be used to supplement and not sup-
18 plant any other amounts available to the Sec-
19 retary for the purpose described in such sub-
20 paragraph.

21 “(C) AVAILABILITY FOR FUNDS.—Any
22 amounts collected under this section that are
23 made available under paragraph (2) shall re-
24 main available until expended.

1 “(3) USE FOR STUDENT RELIEF FUND.—For
2 each fiscal year, an amount equal to not less than
3 50 percent of the amounts recovered or collected
4 under this section shall be deposited into the Stu-
5 dent Relief Fund established under subsection (k).

6 “(4) REPORT.—The Secretary shall regularly
7 publish, on the website of the Department, a de-
8 tailed description that includes—

9 “(A) the amount of funds that were dis-
10 tributed for the purposes described in para-
11 graph (2) and the amount used for the Student
12 Relief Fund under paragraph (3); and

13 “(B) how funds were distributed among
14 the purposes described in paragraph (2)(A)(i).

15 “(j) STUDENT RELIEF FUND.—

16 “(1) ESTABLISHMENT.—The Secretary shall es-
17 tablish a Student Relief Fund (referred to in this
18 subsection as the ‘Fund’) that shall be used, subject
19 to the availability of funds, to provide financial relief
20 to any student enrolled in an institution of higher
21 education that—

22 “(A) has failed to comply with an eligi-
23 bility requirement under section 101 or 102 or
24 an obligation incurred under the terms of the

1 program participation agreement under section
2 487; or

3 “(B) has been sanctioned under subsection
4 (b) or (c).

5 “(2) DETERMINATION OF RELIEF.—The Sec-
6 retary, in consultation with Director of the Bureau
7 of Consumer Financial Protection—

8 “(A) shall determine the manner of relief
9 to be provided under paragraph (1), which may
10 include tuition reimbursement, full or partial
11 loan forgiveness, or loan reinstatement; and

12 “(B) may issue regulations regarding how
13 the amounts in the Fund will be distributed
14 among students eligible for the funds.

15 “(3) TREATMENT AND AVAILABILITY OF
16 FUNDS.—

17 “(A) FUNDS THAT ARE NOT GOVERNMENT
18 FUNDS.—Funds obtained by or transferred to
19 the Fund shall not be construed to be Govern-
20 ment funds or appropriated monies.

21 “(B) AMOUNTS NOT SUBJECT TO APPOR-
22 TIONMENT.—Notwithstanding any other provi-
23 sion of law, amounts in the Fund shall not be
24 subject to apportionment for purposes of chap-

1 ter 15 of title 31, United States Code, or under
2 any other authority.

3 “(C) NO FISCAL YEAR LIMITATION.—Sums
4 deposited in the Fund shall remain in the Fund
5 and be available for expenditure under this
6 chapter without fiscal year limitation.

7 “(4) INVESTMENTS.—

8 “(A) AMOUNTS IN FUND MAY BE IN-
9 VESTED.—The Secretary of Education may re-
10 quest the Secretary of the Treasury to invest
11 the portion of the Fund that is not, in the dis-
12 cretion of the Secretary of Education, required
13 to meet the current needs of the Fund.

14 “(B) ELIGIBLE INVESTMENTS.—Invest-
15 ments shall be made by the Secretary of the
16 Treasury in obligations of the United States or
17 obligations that are guaranteed as to principal
18 and interest by the United States, with matu-
19 rities suitable to the needs of the Fund as de-
20 termined by the Secretary on the record.

21 “(C) INTEREST AND PROCEEDS CRED-
22 ITED.—The interest on, and the proceeds from
23 the sale or redemption of, any obligations held
24 in the Fund shall be credited to the Fund.

1 “(5) REGULATIONS.—The Secretary shall pre-
2 scribe regulations to implement the requirements of
3 this section within 1 year after the date of enact-
4 ment of the PRO Students Act.

5 “(6) AUTHORIZATION OF APPROPRIATIONS.—In
6 addition to funds derived from financial penalties as-
7 sessed pursuant to subsection (j), there are author-
8 ized to be appropriated such sums as may be nec-
9 essary to carry out this subsection.

10 “(k) STATE ENFORCEMENT.—

11 “(1) IN GENERAL.—Any violation of subsection
12 (b), including the regulations promulgated under
13 such subsection, shall be a cause of action enforce-
14 able by the State, through the attorney general (or
15 the equivalent thereof) of the State, in any district
16 court of the United States in that State or in a
17 State court that is located in that State and that
18 has jurisdiction over the defendant. The State may
19 seek any relief provided under paragraph (4)(B) for
20 such violation, or any remedies otherwise provided
21 under law.

22 “(2) NOTICE REQUIRED.—

23 “(A) IN GENERAL.—Before initiating any
24 action in a court or other administrative or reg-
25 ulatory proceeding against any institution of

1 higher education as authorized by paragraph
2 (1) to enforce any provision of this subsection,
3 including any regulation promulgated by the
4 Secretary under this subsection, a State attorney
5 general shall timely provide a copy of the
6 complete complaint to be filed and written notice
7 describing such action or proceeding to the
8 Secretary, except as provided in subparagraph
9 (B).

10 “(B) EMERGENCY ACTION.—If prior notice
11 of the initiation of an action or administrative
12 or regulatory proceeding required under subparagraph
13 (A) is not practicable, the State attorney
14 general shall provide a copy of the complete
15 complaint and the notice to the Secretary
16 immediately upon instituting the action or proceeding.
17

18 “(C) CONTENTS OF NOTICE.—The notification
19 required under this subparagraph shall
20 include—

21 “(i) the identity of the parties;

22 “(ii) the alleged facts underlying the
23 proceeding; and

24 “(iii) whether there may be a need to
25 coordinate the prosecution of the pro-

ceeding so as not to interfere with any action, including any rulemaking, undertaken by the Secretary or another Federal agency.

“(3) REGULATIONS.—The Secretary shall prescribe regulations to implement the requirements of this subsection and periodically provide guidance to further coordinate actions with the State attorneys general.

“(4) PRESERVATION OF STATE AUTHORITY.—

“(A) STATE CLAIMS.—Nothing in this subsection shall be construed as altering, limiting, or affecting the authority of a State attorney general or any other regulatory or enforcement agency or authority to bring an action or other regulatory proceeding arising solely under the law in effect in that State.

“(B) RELIEF.—

“(i) IN GENERAL.—Relief under this subsection may include, without limitation—

“(I) rescission or reformation of contracts;

“(II) refund of moneys or return of real property;

1 “(III) restitution;

2 “(IV) disgorgement or compensa-
3 tion for unjust enrichment;

4 “(V) payment of damages or
5 other monetary relief pursuant to the
6 requirements of paragraph (2);

7 “(VI) public notification regard-
8 ing the violation, including the costs
9 of notification; and

10 “(VII) limits on the activities or
11 functions of the person.

12 “(ii) EXCLUSION.—Relief under this
13 subsection shall not include the ability to
14 suspend or terminate the eligibility status
15 of an institution of higher education for
16 programs under this title.

17 “(1) DEFINITIONS.—In this section:

18 “(1) OFFICER OF AN INSTITUTION OF HIGHER
19 EDUCATION.—The term ‘officer of an institution of
20 higher education’ includes the president, chief execu-
21 tive officer, and chief financial officer of an institu-
22 tion of higher education or their equivalents.

23 “(2) SUBSTANTIAL MISREPRESENTATION OR
24 OTHER SERIOUS VIOLATION.—The term ‘substantial

1 misrepresentation or other serious violation’ means
2 any of the following:

3 “(A) A substantial misrepresentation re-
4 garding—

5 “(i) the nature of the educational pro-
6 gram of an institution of higher education;

7 “(ii) the financial charges of the insti-
8 tution;

9 “(iii) the space availability in a pro-
10 gram of the institution for which a student
11 is considering enrollment;

12 “(iv) the admission requirements of
13 the institution;

14 “(v) the transferability of credits from
15 the institution;

16 “(vi) whether a program of the insti-
17 tution meets the necessary standards to
18 qualify students to sit for licensing exami-
19 nations, or obtain certification required as
20 a precondition for employment, in the
21 State in which the students reside;

22 “(vii) the passage rates of students at
23 the institution in obtaining certification re-
24 quirements;

1 “(viii) the passage rates of students
2 who sit for licensing examinations; or

3 “(ix) the employability of the grad-
4 uates of the institution.

5 “(B) Failure of an institution subject to
6 the requirements of section 487(a)(32) to com-
7 ply with such section.

8 “(C) A knowing and willful misuse of Fed-
9 eral student aid from any source.

10 “(D) A violation of section 487(a)(20).

11 “(E) A violation of the default manipula-
12 tion regulations promulgated by the Secretary
13 under section 435(m)(3).

14 “(F) Failure to comply with the program
15 review process described in section 498A, in-
16 cluding any disclosure requirement described in
17 paragraph (2)(C) or (5) of section 498A(b).

18 “(G) A violation of the program integrity
19 regulations promulgated by the Secretary under
20 this Act.

21 “(H) A violation of this Act that the Sec-
22 retary has determined, by regulation, to be a
23 serious violation for purposes of this section.”.

1 **SEC. 14. REQUIREMENTS FOR ACCREDITING AGENCIES OR**
2 **ASSOCIATIONS.**

3 Section 496(a) of the Higher Education Act of 1965
4 (20 U.S.C. 1099b(a)) is amended—

5 (1) in paragraph (7), by striking “and” after
6 the semicolon;

7 (2) in paragraph (8), by striking the period and
8 inserting “; and”; and

9 (3) by adding at the end the following new
10 paragraph:

11 “(9) such agency or association does not re-
12 quire any institution to enter into predispute arbi-
13 tration agreements with the students of the institu-
14 tion.”.

15 **SEC. 15. PROGRAM REVIEW AND DATA.**

16 Section 498A of the Higher Education Act of 1965
17 (20 U.S.C. 1099c–1) is amended to read as follows:

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

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

21 “(1) IN GENERAL.—The Secretary—

22 “(A) may conduct program reviews, includ-
23 ing on-site visits, of each institution of higher
24 education participating in a program authorized
25 under this title; and

1 “(B) shall conduct a program review under
2 this subsection of each institution of higher
3 education that poses a significant risk of failure
4 to comply with this title, as described in para-
5 graphs (2) and (3).

6 “(2) MANDATORY REVIEWS.—

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

12 “(i) The Secretary determines that—

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

18 “(II) the institution has a cohort
19 default rate, as defined in section
20 435(m), that is more than 20 percent.

21 “(ii) The Secretary determines that—

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

1 erage, as determined by the Secretary
2 in accordance with such section; and

3 “(II) the institution has an ag-
4 gregate amount of defaulted loans, as
5 determined by the Secretary, that
6 places the institution in the highest 1
7 percent of institutions participating in
8 programs authorized under this title
9 in terms of the aggregate amount of
10 defaulted loans.

11 “(iii) In the case of proprietary insti-
12 tutions of higher education, the institution
13 received more than 80 percent of the insti-
14 tution’s revenues from Federal funds as
15 defined in section 166(2), during the 2
16 most recent years for which data is avail-
17 able.

18 “(iv) The institution is among the top
19 1 percent of institutions participating in
20 programs authorized under this title in
21 terms of numbers or rates of complaints
22 related to Federal student financial aid,
23 educational practices and services, or re-
24 cruiting and marketing practices, as re-

ported in the complaint tracking system established under section 161.

“(v) As of the date of the determination, the institution is among the top 1 percent of institutions in terms of low graduation rates, as determined by the Secretary, of all institutions participating in programs authorized under this title.

“(vi) The institution spends more than 20 percent of the institution’s revenues on recruiting and marketing activities and executive compensation.

“(vii) In the fiscal year immediately following the most recent cohort default rate period—

“(I) the institution’s loan defaults increased by 50 percent or more as compared to the preceding period; and

“(II) more than 50 percent of the students attending the institution received loans under this title.

“(viii) The institution, or an executive of the institution, has publicly acknowledged or disclosed that the institution—

1 “(I) is in violation or noncompli-
2 ance with any provision of law admin-
3 istered by a relevant Federal agency
4 or relevant State entity or agency; or

5 “(II) is being investigated re-
6 garding a potential violation of such
7 provision of law.

8 “(ix) The institution—

9 “(I) is a proprietary institution
10 of higher education that has acquired
11 a nonprofit institution of higher edu-
12 cation at any point during the 1-year
13 period preceding the date of the deter-
14 mination; or

15 “(II) was a proprietary institu-
16 tion of higher education and has be-
17 come a nonprofit institution of higher
18 education at any time during the 1-
19 year period preceding the date of the
20 determination.

21 “(B) PUBLICATION OF INSTITUTIONS RE-
22 VIEWED.—The Secretary shall—

23 “(i) post, on a publicly available
24 website, the name of each institution of

1 higher education that is reviewed under
2 subparagraph (A);

3 “(ii) indicate, on such website, with
4 respect to each such institution, which of
5 the mandatory review criteria, as described
6 in subparagraph (A), such institution met;
7 and

8 “(iii) indicate on the College Navi-
9 gator website of the Department, or any
10 successor website, the name of each insti-
11 tution of higher education that is reviewed
12 under subparagraph (A).

13 “(C) INSTITUTIONAL DISCLOSURE OF RE-
14 VIEW.—Each institution of higher education
15 that is reviewed under subparagraph (A)
16 shall—

17 “(i) post on the home page of the in-
18 stitution’s website that the institution will
19 be subject to a mandatory program review
20 and why the institution is being reviewed
21 and shall maintain such posting and expla-
22 nation for 1 year or until the Secretary has
23 issued its final program review report
24 under subsection (c)(5)(C), whichever oc-
25 curs sooner;

1 “(ii) provide a clear, conspicuous dis-
2 closure of the information described in
3 clause (i) to students who inquire about
4 admission to the institution or submit an
5 application for admission to the institution
6 prior to the student signing an enrollment
7 agreement with the institution, for 1 year
8 or until the Secretary has issued the final
9 program review report under subsection
10 (c)(6)(C), whichever occurs sooner; and

11 “(iii) include the information de-
12 scribed in clause (i) on materials of accept-
13 ance or admission submitted to each stu-
14 dent before the student enrolls in the insti-
15 tution, for 1 year or until the Secretary
16 has issued the final program review report
17 under subsection (c)(6)(C), whichever oc-
18 curs sooner.

19 “(3) RISK-BASED REVIEWS.—

20 “(A) IN GENERAL.—The Secretary shall
21 use a risk-based approach to select, on an an-
22 nual basis not less than 2 percent of institu-
23 tions of higher education participating in a pro-
24 gram authorized under this title that are not
25 reviewed under paragraph (2), for a program

1 review. Such approach shall prioritize program
2 reviews of institutions that—

3 “(i) have received large increases in
4 funding under this title during the 5-year
5 period preceding the date of the determina-
6 tion;

7 “(ii) have a large proportion of overall
8 revenue from Federal funds, as defined in
9 section 166(2);

10 “(iii) have a significant fluctuation in
11 Federal Direct Stafford Loan volume, Fed-
12 eral Pell Grant award volume, or any com-
13 bination thereof, in the year for which the
14 selection is made, compared to the year
15 prior to such year, that is not accounted
16 for by changes in the Federal Direct Staf-
17 ford Loan program, the Federal Pell Grant
18 program, or any combination thereof;

19 “(iv) have experienced sharp increases
20 in enrollment in absolute numbers or rate
21 of growth;

22 “(v) have high rates of defaults, rel-
23 ative to all other institutions of higher edu-
24 cation participating in a program author-

1 ized under this title, for loans issued under
2 this title over the lifetime of the loans;

3 “(vi) have a large aggregate dollar
4 amount of loans under this title in default,
5 or a high cohort default rate as described
6 in section 435(m);

7 “(vii) have a high student default
8 risk, as compared to the student default
9 risk for all institutions participating in a
10 program under this title;

11 “(viii) have a high proportion or high
12 rate of complaints related to Federal stu-
13 dent financial aid, educational practices
14 and services, or recruiting and marketing
15 practices, as reported in the complaint
16 tracking system established under section
17 161;

18 “(ix) have extremely low graduation
19 rates, as determined by the Secretary;

20 “(x) are in poor financial health ac-
21 cording to financial responsibility stand-
22 ards described in section 498(c);

23 “(xi) are spending a large percentage
24 of the institution’s revenues on recruiting

1 and marketing activities and executive
2 compensation;

3 “(xii) in the case of proprietary insti-
4 tutions of higher education, have large
5 profit margins and profit growth;

6 “(xiii) have been put on notice, warn-
7 ing, or probation by, or is subject to a
8 show cause order from, a nationally recog-
9 nized accrediting agency or association
10 that is recognized by the Secretary pursu-
11 ant to part H of title IV;

12 “(xiv) has been found to have compli-
13 ance problems under this title, or is at sig-
14 nificant risk of failing to comply with ap-
15 plicable Federal or State laws, by a rel-
16 evant Federal agency or a relevant State
17 entity or agency, including the Comptroller
18 General of the United States;

19 “(xv) has had a large amount of funds
20 returned under section 484B; or

21 “(xvi) in the case of proprietary insti-
22 tutions of higher education, have experi-
23 enced a change in ownership or control of
24 the institution, including a buyout.

1 “(B) CRITERIA FOR RISK-BASED RE-
2 VIEWS.—The Secretary shall publish, and up-
3 date as necessary, the specific criteria that the
4 Secretary will use to determine which institu-
5 tions of higher education are selected for risk-
6 based reviews under subparagraph (A).

7 “(4) PUBLIC DISCLOSURE OF VIOLATIONS.—
8 The Secretary shall—

9 “(A) post on the College Navigator
10 website, or any successor website, of the De-
11 partment, the name of each institution of high-
12 er education that is found to have violated a
13 provision of this title knowingly and willfully or
14 with gross negligence;

15 “(B) indicate on such website, with respect
16 to each such institution, which of the provisions
17 of this title the institution violated; and

18 “(C) maintain such posting until the date
19 the institution of higher education rectifies the
20 violation or the date that is 1 year after the
21 date the Secretary issues the final program re-
22 view report under subsection (c)(6)(C) with re-
23 spect to such institution, whichever date is
24 later.

1 “(5) INSTITUTIONAL DISCLOSURE OF VIOLA-
2 TIONS.—Each institution of higher education that is
3 found to have violated a provision of this title know-
4 ingly and willfully or with gross negligence shall—

5 “(A) not later than 15 days after the date
6 of issuance of the final program review report
7 containing the finding, post on the home page
8 of the institution’s website that the institution
9 has been found to have violated a provision of
10 this title knowingly and willfully or with gross
11 negligence, including the provision the institu-
12 tion was found to have violated;

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

19 “(C) include the information described in
20 subparagraph (A) on materials of acceptance or
21 admission submitted to each student before the
22 student enrolls in the institution until the date
23 the institution rectifies the violation or the date
24 that is 1 year after the date the Secretary
25 issues the final program review report under

1 subsection (c)(6)(C) with respect to such insti-
2 tution, whichever date is later.

3 “(b) CHARACTERISTICS OF PROGRAM REVIEWS.—

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

8 “(2) SHARING OF INFORMATION.—The Sec-
9 retary shall share all final program review deter-
10 minations conducted under this section with relevant
11 Federal agencies and relevant State entities or agen-
12 cies, and appropriate accrediting agencies and asso-
13 ciations, to enable such agencies, entities, and asso-
14 ciations to determine the eligibility of institutions for
15 funds or accreditation.

16 “(3) INTERACTION WITH OTHER FEDERAL
17 AGENCIES AND LAWS.—To the extent practicable,
18 the Secretary shall coordinate program reviews con-
19 ducted under this section with other reviews and au-
20 dits conducted by the Department, and with relevant
21 Federal agencies and relevant State entities or agen-
22 cies.

23 “(4) VIOLATIONS DISCOVERED THROUGH PRO-
24 GRAM REVIEW.—

1 “(A) VIOLATIONS OF THIS TITLE.—If, in
2 the course of conducting a program review, the
3 Secretary obtains evidence that any institution
4 of higher education or person has engaged in
5 conduct that may constitute a violation of this
6 title, including a failure to fully comply with the
7 program review process and reporting require-
8 ments under this section, the Secretary may
9 sanction such institution or person, pursuant to
10 section 489A.

11 “(B) VIOLATIONS OF OTHER FEDERAL
12 LAWS.—If, in the course of conducting a pro-
13 gram review, the Secretary obtains evidence
14 that any institution of higher education or per-
15 son has engaged in conduct that may constitute
16 a violation of Federal law, the Secretary shall
17 transmit such evidence to the Attorney General
18 of the United States, the Director of the Bu-
19 reau of Consumer Financial Protection, the
20 Commissioner of the Federal Trade Commis-
21 sion, or the head of any other appropriate Fed-
22 eral agency who may institute proceedings
23 under appropriate law.

24 “(C) RULE OF CONSTRUCTION.—Nothing
25 in this paragraph shall be constructed to affect

1 any other authority of the Secretary to disclose
2 information.

3 “(5) CONDUCT OF REVIEWS.—When conducting
4 program reviews under this section, the Secretary
5 shall assess the institution of higher education’s
6 compliance with the provisions of this title. Each
7 program review shall include, at a minimum, the fol-
8 lowing:

9 “(A) With regard to the institutional infor-
10 mation, the Secretary shall assess financial ca-
11 pability, administrative capability, and program
12 integrity, including whether the institution—

13 “(i) knowingly and willfully misused
14 Federal student aid from any source;

15 “(ii) violated section 487(a)(20);

16 “(iii) engaged in any substantial mis-
17 representation or other serious violation, as
18 defined in section 489A; or

19 “(iv) violated the program integrity
20 regulations promulgated by the Secretary
21 under this Act.

22 “(B) With regard to student information,
23 the Secretary shall examine—

1 “(i) graduation rates compared with
2 all other institutions participating in a pro-
3 gram authorized under this title;

4 “(ii) student complaints, including
5 interviews with current and former stu-
6 dents, faculty and staff, and accrediting
7 agencies; and

8 “(iii) information from the complaint
9 data system established under section 161.

10 “(6) ADMINISTRATIVE PROCESS.—

11 “(A) TRAINING.—The Secretary shall pro-
12 vide training, including investigative training, to
13 personnel of the Department designed to im-
14 prove the quality of financial and compliance
15 audits and program reviews conducted under
16 this section, including instruction about appro-
17 priately and effectively conducting such audits
18 and reviews for institutions of higher education
19 from different sectors of higher education.

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

23 “(i) establish guidelines designed to
24 ensure uniformity of practice in the con-
25 duct of such reviews;

1 “(ii) make available to each institu-
2 tion of higher education participating in a
3 program authorized under this title com-
4 plete copies of all review guidelines and
5 procedures used in program reviews, except
6 that internal training materials for Depart-
7 ment staff related to identifying instances
8 of fraud, misrepresentation, or intentional
9 noncompliance shall not be disclosed;

10 “(iii) permit an institution of higher
11 education to correct or cure an administra-
12 tive, accounting, or recordkeeping error
13 within 90 days of the issuance of the final
14 program review report, if the error is not
15 part of a pattern of error and there is no
16 evidence of fraud or misconduct related to
17 the error;

18 “(iv) without sharing personally iden-
19 tifiable information and in accordance with
20 section 444 of the General Education Pro-
21 visions Act (20 U.S.C. 1232g, commonly
22 known as the ‘Family Educational Rights
23 and Privacy Act of 1974’), inform the rel-
24 evant Federal agencies and relevant State
25 entities or agencies, and accrediting agency

1 or association, whenever the Secretary
2 finds a violation of this title or sanctions
3 an institution of higher education under
4 section 432, 489A, or 498; and

5 “(v) provide to an institution of high-
6 er education 90 calendar days to review
7 and respond to any program review report
8 and relevant materials related to the report
9 before any final program review report is
10 issued.

11 “(C) FINAL PROGRAM REVIEW DETER-
12 MINATION.—

13 “(i) IN GENERAL.—Not later than
14 180 calendar days after issuing a program
15 review report under this section, the Sec-
16 retary shall review and consider an institu-
17 tion of higher education’s response, and
18 issue a final program review determination
19 or audit determination. The final deter-
20 mination shall include—

21 “(I) a written statement address-
22 ing the institution of higher edu-
23 cation’s response;

24 “(II) a written statement of the
25 basis for such determination; and

1 “(III) a copy of the institution’s
2 response.

3 “(ii) CONFIDENTIALITY.—The Sec-
4 retary shall maintain and preserve at all
5 times the confidentiality of any program
6 review report until a final program review
7 determination is issued, other than to in-
8 form the relevant Federal agencies and rel-
9 evant State entities or agencies, and ac-
10 crediting agency or association, as required
11 under this section.

12 “(D) REPORTS DISCLOSED TO THE INSTI-
13 TUTION.—The Secretary shall promptly disclose
14 each program review report and each final pro-
15 gram review determination to the institution of
16 higher education under review.

17 “(E) REMOVAL OF PERSONALLY IDENTIFI-
18 ABLE INFORMATION.—Any personally identifi-
19 able information from the education records of
20 students shall be removed from any program re-
21 view report or final program review determina-
22 tion before the report is shared with any rel-
23 evant Federal agency, State entity or agency, or
24 accrediting agency or association.

1 “(7) FOLLOW-UP REVIEWS AFTER VIOLA-
2 TIONS.—The Secretary shall conduct follow-up re-
3 views of each institution of higher education that
4 has been found in violation of a provision of this
5 title not later than 1 year after the date of such
6 finding. Such follow-up reviews may only assess
7 whether the institution of higher education has cor-
8 rected violations found in a previous program review
9 or final program review determination.

10 “(c) DEFINITIONS.—In this section:

11 “(1) EXECUTIVE COMPENSATION.—The term
12 ‘executive compensation’, when used with respect to
13 an institution of higher education, means the wages,
14 salary, fees, commissions, fringe benefits, deferred
15 compensation, retirement contributions, options, bo-
16 nuses, property, and any other form of remuneration
17 that the Secretary determines is appropriate, given
18 to the 5 percent of employees at the institution who
19 are the highest compensated.

20 “(2) RELEVANT FEDERAL AGENCY.—The term
21 ‘relevant Federal agency’ means—

22 “(A) the Department of Education;

23 “(B) the Department of Veterans Affairs;

24 “(C) the Department of Defense;

1 “(D) the Bureau of Consumer Financial
2 Protection;

3 “(E) the Federal Trade Commission; or

4 “(F) any other Federal agency that pro-
5 vides Federal student assistance or that the
6 Secretary determines appropriate.

7 “(3) RELEVANT STATE ENTITY OR AGENCY.—
8 The term ‘relevant State entity or agency’ means—

9 “(A) an appropriate State licensing or au-
10 thorizing agency;

11 “(B) the attorney general (or the equiva-
12 lent thereof) of the State; or

13 “(C) any other State entity or agency that
14 the Secretary determines appropriate.”.

15 **SEC. 16. CONSUMER PROTECTIONS FOR STUDENTS.**

16 (a) DEFINITIONS.—In this section:

17 (1) FEDERAL FINANCIAL ASSISTANCE PRO-
18 GRAM.—The term “Federal financial assistance pro-
19 gram” means a program that provides Federal edu-
20 cation assistance funds, as described in section 103
21 of the Higher Education Act of 1965 (20 U.S.C.
22 1003), to any postsecondary educational institution.

23 (2) POSTSECONDARY EDUCATIONAL INSTITU-
24 TION.—The term “postsecondary educational institu-
25 tion” means an educational institution that awards

1 a degree or certificate and is located in any State
2 and includes—

3 (A) an institution of higher education, as
4 defined in section 102 of the Higher Education
5 Act of 1965 (20 U.S.C. 1002);

6 (B) a postsecondary educational institu-
7 tion, as defined in section 203 of the Adult
8 Education and Family Literacy Act (29 U.S.C.
9 3272); and

10 (C) an educational institution, as defined
11 under section 3452 of title 38, United States
12 Code.

13 (3) STATE.—

14 (A) STATE.—The term “State” includes,
15 in addition to the several States of the United
16 States, the Commonwealth of Puerto Rico, the
17 District of Columbia, Guam, American Samoa,
18 the United States Virgin Islands, the Common-
19 wealth of the Northern Mariana Islands, and
20 the freely associated States.

21 (B) FREELY ASSOCIATED STATES.—The
22 term “freely associated States” means the Re-
23 public of the Marshall Islands, the Federated
24 States of Micronesia, and the Republic of
25 Palau.

1 (b) CONSUMER PROTECTIONS.—Notwithstanding
2 any other provision of law, a postsecondary educational
3 institution is not eligible to participate in a Federal finan-
4 cial assistance program with respect to any program of
5 postsecondary education or training, including a degree or
6 certificate program, that is designed to prepare students
7 for entry into a recognized occupation or profession that
8 requires licensing or other established requirements as a
9 pre-condition for entry into such occupation or profession,
10 unless—

11 (1) the successful completion of the program
12 fully qualifies a student, in the Metropolitan Statis-
13 tical Area in which the student resides, to—

14 (A) take any examination required for
15 entry into the recognized occupation or profes-
16 sion in the Metropolitan Statistical Area in
17 which the student resides, including satisfying
18 all State or professionally mandated pro-
19 grammatic and specialized accreditation re-
20 quirements, if any; and

21 (B) be certified or licensed or meet any
22 other academically related pre-conditions that
23 are required for entry into the recognized occu-
24 pation or profession in the Metropolitan Statis-
25 tical Area in which the student resides; and

1 (2) the institution offering the program pro-
2 vides timely placement for all of the academically re-
3 lated pre-licensure requirements for entry into the
4 recognized occupation or profession in the Metropoli-
5 tan Statistical Area in which the student resides,
6 such as clinical placements, internships, or appren-
7 ticeships.

8 (c) EFFECTIVE DATE.—This section shall take effect
9 on the date that is 180 days after the date of the enact-
10 ment of this Act.

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