

115TH CONGRESS
2D SESSION

S. 3762

To amend the Higher Education Opportunity Act to restrict institutions of higher education from using revenues derived from Federal educational assistance funds for advertising, marketing, or recruiting purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 17, 2018

Mr. BROWN (for himself, Mr. MURPHY, Mr. BLUMENTHAL, Mr. DURBIN, and Mr. CARPER) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Higher Education Opportunity Act to restrict institutions of higher education from using revenues derived from Federal educational assistance funds for advertising, marketing, or recruiting 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.**

4 This Act may be cited as the “Protecting Financial
5 Aid for Students and Taxpayers Act”.

1 **SEC. 2. RESTRICTIONS ON SOURCES OF FUNDS FOR RE-**
 2 **CRUITING AND MARKETING ACTIVITIES.**

3 Section 119 of the Higher Education Opportunity
 4 Act (20 U.S.C. 1011m) is amended—

5 (1) in the section heading, by inserting “**AND**
 6 **RESTRICTIONS ON SOURCES OF FUNDS FOR**
 7 **RECRUITING AND MARKETING ACTIVITIES**”
 8 after “**FUNDS**”;

9 (2) in subsection (d), by striking “subsections
 10 (a) through (c)” and inserting “subsections (a), (b),
 11 (c), and (e)”;

12 (3) by redesignating subsection (e) as sub-
 13 section (f); and

14 (4) by inserting after subsection (d) the fol-
 15 lowing:

16 “(e) RESTRICTIONS ON SOURCES OF FUNDS FOR RE-
 17 CRUITING AND MARKETING ACTIVITIES.—

18 “(1) IN GENERAL.—An institution of higher
 19 education, or other postsecondary educational insti-
 20 tution, may not use revenues derived from Federal
 21 educational assistance funds for recruiting or mar-
 22 keting activities described in paragraph (2).

23 “(2) COVERED ACTIVITIES.—Except as pro-
 24 vided in paragraph (3), the recruiting and marketing
 25 activities subject to paragraph (1) shall include the
 26 following:

1 “(A) Advertising and promotion activities,
2 including paid announcements in newspapers,
3 magazines, radio, television, billboards, elec-
4 tronic media, naming rights, or any other public
5 medium of communication, including paying for
6 displays or promotions at job fairs, military in-
7 stallations, or college recruiting events.

8 “(B) Efforts to identify and attract pro-
9 spective students, either directly or through a
10 contractor or other third party, including con-
11 tact concerning a prospective student’s potential
12 enrollment or application for grant, loan, or
13 work assistance under title IV of the Higher
14 Education Act of 1965 (20 U.S.C. 1070 et
15 seq.) or participation in preadmission or advis-
16 ing activities, including—

17 “(i) paying employees responsible for
18 overseeing enrollment and for contacting
19 potential students in-person, by phone, by
20 email, or by other Internet communications
21 regarding enrollment; and

22 “(ii) soliciting an individual to provide
23 contact information to an institution of
24 higher education, including websites estab-

1 lished for such purpose and funds paid to
2 third parties for such purpose.

3 “(C) Such other activities as the Secretary
4 of Education may prescribe, including paying
5 for promotion or sponsorship of education or
6 military-related associations.

7 “(3) EXCEPTIONS.—Any activity that is re-
8 quired as a condition of receipt of funds by an insti-
9 tution under title IV of the Higher Education Act of
10 1965 (20 U.S.C. 1070 et seq.), is specifically author-
11 ized under such title, or is otherwise specified by the
12 Secretary of Education, shall not be considered to be
13 a covered activity under paragraph (2).

14 “(4) FEDERAL EDUCATIONAL ASSISTANCE
15 FUNDS.—In this subsection, the term ‘Federal edu-
16 cational assistance funds’ means funds provided di-
17 rectly to an institution or to a student attending
18 such institution under any of the following provi-
19 sions of law:

20 “(A) Title IV of the Higher Education Act
21 of 1965 (20 U.S.C. 1070 et seq.).

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

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

1 “(D) Section 1784a, 2005, or 2007 of title
2 10, United States Code.

3 “(E) Title I of the Workforce Innovation
4 and Opportunity Act (29 U.S.C. 3111 et seq.).

5 “(F) The Adult Education and Family Lit-
6 eracy Act (29 U.S.C. 3271 et seq.).

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

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

18 “(A) the institution’s expenditures on ad-
19 vertising, marketing, and recruiting;

20 “(B) a verification from an independent
21 auditor that the institution is in compliance
22 with the requirements of this subsection; and

1 “(C) a certification from the institution
2 that the institution is in compliance with the re-
3 quirements of this subsection.”.

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