

116TH CONGRESS  
1ST SESSION

# H. R. 3487

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

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2019

Mr. TAKANO introduced the following bill; which was referred to the  
Committee on Education and Labor

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## 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. Proprietary education oversight coordination committee.
- Sec. 8. Improved determination of cohort default rates; publication of default prevention plan.
- Sec. 9. Amendments to terms and conditions of borrower defenses.
- Sec. 10. Improved student loan servicing and debt collection practices.
- Sec. 11. Improved disclosures, counseling, and financial assistance information for students.
- Sec. 12. Program participation agreements.
- Sec. 13. Improved disclosures for clinical training programs.
- Sec. 14. Civil penalties.
- Sec. 15. Requirements for accrediting agencies or associations.
- Sec. 16. Program review and data.
- Sec. 17. 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;”;

19 (3) in subparagraph (C)—

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

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

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

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

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

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

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

23 “(ii) only to the extent that funds in  
24 that account represent designated funds,  
25 or income earned on such funds, from a

1 source that has no affiliation with the in-  
2 stitution and shares no employees with the  
3 institution; and”.

4 (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall take effect 1 year after the date of enact-  
6 ment of this Act.

7 **SEC. 3. DEFINITIONS.**

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

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

14 (2) by inserting after paragraph (3) the fol-  
15 lowing new paragraph:

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

1 education would be at risk of cohort default rate  
2 sanctions under section 435 or student default risk  
3 sanctions under section 489A.”;

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

7 “(11) FEDERAL EDUCATIONAL ASSISTANCE  
8 FUNDS.—The term ‘Federal educational assistance  
9 funds’ means any Federal financial assistance pro-  
10 vided, under this Act or any other Federal law,  
11 through a grant, contract, subsidy, loan, guarantee,  
12 insurance, or other means to an institution of higher  
13 education, including Federal financial assistance  
14 that is disbursed or delivered to an institution or on  
15 behalf of a student or to a student to be used to at-  
16 tend the institution, except that such term shall not  
17 include any monthly housing stipend provided under  
18 the Post-9/11 Veterans Educational Assistance Pro-  
19 gram under chapter 33 of title 38, United States  
20 Code.”; and

21 (4) by inserting after paragraph (16), as reded-  
22 icated by paragraph (1) of this section, the fol-  
23 lowing new paragraph:

24 “(17) RECRUITING AND MARKETING ACTIV-  
25 ITY.—

1           “(A) IN GENERAL.—Except as provided in  
2           subparagraph (B), the term ‘recruiting and  
3           marketing activity’ means an activity that con-  
4           sists of any of the following:

5                   “(i) Any advertising or promotion ac-  
6                   tivity, including a paid announcement in  
7                   newspapers, magazines, radio, television,  
8                   billboards, electronic media, naming rights,  
9                   or any other public medium of communica-  
10                  tion, including paying for a display or pro-  
11                  motion at a job fair, military installation,  
12                  or postsecondary education recruiting  
13                  event.

14                  “(ii) Any effort to identify and attract  
15                  prospective students, directly or through a  
16                  contractor or other third party, including  
17                  any contact concerning a prospective stu-  
18                  dent’s potential enrollment or application  
19                  for grant, loan, or work assistance under  
20                  title IV or participation in preadmission or  
21                  advising activities, including—

22                   “(I) paying employees responsible  
23                   for overseeing enrollment and for con-  
24                   tacting potential students in person,  
25                   by phone, by email, by internet com-

1                   munications, or by other means, re-  
2                   garding enrollment;

3                   “(II) compensating a person to  
4                   provide to an institution of higher  
5                   education contact information regard-  
6                   ing prospective students, including in-  
7                   formation obtained through websites  
8                   established for such purpose; and

9                   “(III) providing funds to a third  
10                  party to create or maintain a website  
11                  for the purpose of obtaining contact  
12                  information regarding prospective stu-  
13                  dents.

14                 “(iii) Any other activity as the Sec-  
15                 retary may determine.

16                 “(B) EXCEPTION.—An activity that is re-  
17                 quired as a condition of receipt of funds by an  
18                 institution under title IV, or under another ap-  
19                 plicable Federal law, shall not be considered to  
20                 be a recruiting and marketing activity under  
21                 subparagraph (A).”.

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

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

9       **SEC. 4. RESTRICTION ON MARKETING WITH FEDERAL EDU-**  
 10                                   **CATIONAL ASSISTANCE FUNDS.**

11       (a) REPEAL OF EXISTING PROVISION.—The Higher  
 12 Education Opportunity Act is amended by striking section  
 13 119 (20 U.S.C. 1011m).

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

18       **“SEC. 124. CERTIFICATION REGARDING THE USE OF CER-**  
 19                                   **TAIN FEDERAL FUNDS AND RESTRICTIONS**  
 20                                   **ON SOURCES OF FUNDS FOR RECRUITING**  
 21                                   **AND MARKETING ACTIVITIES.**

22       “(a) PROHIBITION.—No Federal funds received  
 23 under this Act by an institution of higher education or  
 24 other postsecondary educational institution may be used  
 25 to pay any person for influencing or attempting to influ-



1   ence an officer or employee of any agency, a Member of  
2   Congress, an officer or employee of Congress, or an em-  
3   ployee of a Member of Congress in connection with any  
4   Federal action described in subsection (b).

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

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

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

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

10          “(4) The entering into of any Federal coopera-  
11       tive agreement.

12          “(5) The extension, continuation, renewal,  
13       amendment, or modification of any Federal contract,  
14       grant, loan, or cooperative agreement.

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

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

21          “(1) IN GENERAL.—An institution of higher  
22       education, or other postsecondary educational insti-  
23       tution, may not use revenues derived from Federal  
24       educational assistance funds for recruiting or mar-  
25       keting activities.

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

6           “(3) REPORTS.—Each institution of higher  
7           education, or other postsecondary educational insti-  
8           tution, that derives 65 percent or more of revenues  
9           from Federal educational assistance funds shall re-  
10          port annually to the Secretary and to Congress and  
11          shall include in such report—

12                 “(A) a statement of the institution’s ex-  
13                 penditures on advertising, marketing, and re-  
14                 cruiting; and

15                 “(B) a verification from an independent  
16                 auditor that the institution is in compliance  
17                 with the requirements of this subsection.

18          “(e) CERTIFICATION.—Each institution of higher  
19          education or other postsecondary educational institution  
20          receiving Federal funding under this Act, as a condition  
21          for receiving such funding, shall annually certify to the  
22          Secretary of Education that the requirements of sub-  
23          sections (a) through (d) have been met.

24          “(f) ACTIONS TO IMPLEMENT AND ENFORCE.—The  
25          Secretary shall take such actions as are necessary to en-

1 sure that the provisions of this section are implemented  
2 and enforced.”.

3 **SEC. 5. WHISTLEBLOWER PROTECTIONS FOR PERSONS AS-**  
4 **SOCIATED WITH INSTITUTIONS OF HIGHER**  
5 **EDUCATION.**

6 (a) WHISTLEBLOWER PROTECTION PROGRAM.—Title  
7 I of the Higher Education Act of 1965 is amended by in-  
8 serting after section 123 (20 U.S.C. 10111) the following  
9 new section:

10 **“SEC. 124. PROTECTION FROM RETALIATION FOR DISCLO-**  
11 **SURE OF CERTAIN INFORMATION BY PER-**  
12 **SONS ASSOCIATED WITH INSTITUTIONS OF**  
13 **HIGHER EDUCATION.**

14 “(a) PROHIBITION OF RETALIATION.—

15 “(1) IN GENERAL.—An institution of higher  
16 education participating in programs under title IV  
17 (in this section referred to as an ‘institution’) may  
18 not discharge, demote, or otherwise discriminate  
19 against any person as retaliation for—

20 “(A) such person disclosing to an indi-  
21 vidual or entity described in paragraph (2) in-  
22 formation such person reasonably believes evi-  
23 dences a violation of any law, rule, or regulation  
24 by the institution; or

1           “(B) assisting a person disclosing such in-  
2           formation or providing information or docu-  
3           ments for use in disclosing such information.

4           “(2) INDIVIDUALS AND ENTITIES COVERED.—  
5           The individuals and entities described in this para-  
6           graph are:

7           “(A) A Member of Congress or a rep-  
8           resentative of a committee of Congress.

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

11          “(C) The Government Accountability Of-  
12          fice.

13          “(D) A law enforcement agency.

14          “(E) A court or grand jury.

15          “(F) A management official or other em-  
16          ployee of an institution who has the responsi-  
17          bility to investigate, discover, or address mis-  
18          conduct.

19          “(b) INVESTIGATION OF COMPLAINTS.—

20          “(1) SUBMISSION OF COMPLAINT.—A person  
21          who believes that they have been subjected to a re-  
22          taliation prohibited by subsection (a) may submit a  
23          complaint to the Inspector General of the Depart-  
24          ment of Education (in this section referred to as the  
25          ‘Inspector General’). Unless the Inspector General

1 determines that the complaint is frivolous, fails to  
2 allege a violation of subsection (a), or has previously  
3 been addressed in another Federal or State judicial  
4 or administrative proceeding initiated by the com-  
5 plainant, the Inspector General shall investigate the  
6 complaint and, upon completion of such investiga-  
7 tion, submit a report of the findings of the investiga-  
8 tion to the complainant, the institution concerned,  
9 and the Secretary.

10 “(2) INSPECTOR GENERAL ACTION.—

11 “(A) DETERMINATION OR SUBMISSION OF  
12 REPORT ON FINDINGS.—Except as provided  
13 under subparagraph (B), the Inspector General  
14 shall make a determination that a complaint is  
15 frivolous, fails to allege a violation of subsection  
16 (a), or has previously been addressed in another  
17 Federal or State judicial or administrative pro-  
18 ceeding initiated by the complainant or submit  
19 a report under paragraph (1) not later than  
20 180 days after receiving the complaint.

21 “(B) EXTENSION OF TIME.—If the Inspec-  
22 tor General is unable to complete an investiga-  
23 tion in time to submit a report within the 180-  
24 day period specified in subparagraph (A) and  
25 the complainant agrees to an extension of time,

1 the Inspector General shall submit a report  
2 under paragraph (1) within such additional pe-  
3 riod of time, up to 180 days, as shall be agreed  
4 upon between the Inspector General and the  
5 complainant.

6 “(3) PROHIBITION ON DISCLOSURE.—The In-  
7 spector General may not respond to any inquiry or  
8 disclose any information from or about any person  
9 alleging retaliation, except to the extent that such  
10 response or disclosure is—

11 “(A) made with the consent of the person  
12 alleging the retaliation;

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

17 “(C) necessary to conduct an investigation  
18 of the alleged retaliation.

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

23 “(c) REMEDY AND ENFORCEMENT AUTHORITY.—

24 “(1) IN GENERAL.—Not later than 30 days  
25 after receiving an Inspector General report pursuant

1 to subsection (b), the Secretary shall determine  
2 whether there is sufficient basis to conclude that the  
3 institution has violated subsection (a) and shall ei-  
4 ther issue an order denying relief or shall take one  
5 or more of the following actions:

6 “(A) Order the institution to take action to  
7 abate the retaliation.

8 “(B) Order the institution to reinstate the  
9 complainant to the position that the complain-  
10 ant held before the retaliation, together with  
11 compensatory damages (including back pay)  
12 and any other benefits, terms, or conditions  
13 that would apply to the complainant in that po-  
14 sition if the retaliation had not occurred.

15 “(C) Order the institution to pay the com-  
16 plainant an amount equal to the aggregate  
17 amount of all costs and expenses (including at-  
18 torneys’ fees and expert witness fees) that were  
19 reasonably incurred by the complainant for, or  
20 in connection with, bringing the complaint re-  
21 garding the retaliation, as determined by the  
22 Secretary.

23 “(2) EXHAUSTION OF REMEDIES.—If the Sec-  
24 retary issues an order denying relief under para-  
25 graph (1) or has not issued an order within 210

1 days after the submission of a complaint under sub-  
2 section (b), or in the case of an extension of time  
3 under subsection (b)(2)(B), not later than 30 days  
4 after the expiration of the extension of time, and  
5 there is no showing that such delay is due to the bad  
6 faith of the complainant, the complainant shall be  
7 deemed to have exhausted all administrative rem-  
8 edies with respect to the complaint, and the com-  
9 plainant may bring a de novo action at law or equity  
10 against the institution to seek compensatory dam-  
11 ages and other relief available under this section in  
12 the appropriate district court of the United States,  
13 which shall have jurisdiction over such an action  
14 without regard to the amount in controversy. Such  
15 an action shall, at the request of either party to the  
16 action, be tried by the court with a jury. An action  
17 under this paragraph may not be brought more than  
18 two years after the date on which remedies are  
19 deemed to have been exhausted.

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



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

13          “(5) JUDICIAL REVIEW.—Any person adversely  
14          affected or aggrieved by an order issued under para-  
15          graph (1) may obtain review of the order’s conform-  
16          ance with this subsection, and any regulations issued  
17          to carry out this section, in the United States court  
18          of appeals for a circuit in which the retaliation is al-  
19          leged in the order to have occurred. No petition  
20          seeking such review may be filed more than 60 days  
21          after issuance of the order by the head of the execu-  
22          tive agency. Such review shall conform to chapter 7  
23          of title 5, United States Code. Filing such an appeal  
24          shall not act to stay the enforcement of the order of

1 the Secretary, unless a stay is specifically entered by  
2 the court.

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

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

15 “(d) NOTIFICATION OF PERSONS ASSOCIATED WITH  
16 INSTITUTION.—The Secretary shall ensure that each insti-  
17 tution informs the employees, students, and contractors  
18 of the institution in writing of the rights and remedies  
19 provided under this section.

20 “(e) CONSTRUCTION.—Nothing in this section may  
21 be construed to authorize the discharge of, demotion of,  
22 or discrimination against a person for a disclosure other  
23 than a disclosure protected by subsection (a) or to modify  
24 or derogate from a right or remedy otherwise available  
25 such person.”.

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

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

7 **SEC. 6. ESTABLISHMENT OF COMPLAINT RESOLUTION AND**  
 8 **TRACKING SYSTEM.**

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

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

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

14 “(a) ESTABLISHMENT OF COMPLAINT TRACKING  
 15 SYSTEM.—

16 “(1) ESTABLISHMENT OF COMPLAINT TRACK-  
 17 ING SYSTEM.—Not later than 1 year after the enact-  
 18 ment of the PRO Students Act, the Secretary shall  
 19 complete the establishment of a complaint tracking  
 20 system that includes a single, toll-free telephone  
 21 number and a website to facilitate the centralized  
 22 collection of, monitoring of, and response to com-  
 23 plaints or inquiries regarding the educational prac-  
 24 tices and services, and recruiting and marketing

1 practices, of all postsecondary educational institu-  
2 tions.

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

10 “(A) to the extent necessary, combine and  
11 consolidate the other offices and functions of  
12 the Department to ensure that the office estab-  
13 lished under this paragraph is the single point  
14 of contact for students and borrowers with com-  
15 plaints; and

16 “(B) to the extent practicable, ensure that  
17 the office established in this paragraph will  
18 work with the Student Loan Ombudsman ap-  
19 pointed in accordance with section 141(f) to as-  
20 sist borrowers that have complaints regarding  
21 the educational practices and services, and re-  
22 cruiting and marketing practices, of postsec-  
23 ondary educational institutions.

24 “(b) HANDLING OF COMPLAINTS.—

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

9           “(A) the steps that have been taken by the  
10       Secretary in response to the complaint or in-  
11       quiry;

12           “(B) any responses received by the Sec-  
13       retary from the institution of higher education;  
14       and

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

18           “(2) TIMELY RESPONSE TO SECRETARY BY IN-  
19       STITUTION OF HIGHER EDUCATION.—The Secretary  
20       shall notify each institution of higher education that  
21       receives funds under this Act and that is the subject  
22       of a complaint or inquiry under this section regard-  
23       ing the complaint or inquiry. Not later than 60 days  
24       after receiving such notice, such institution shall

1 provide a response to the Secretary concerning the  
2 complaint or inquiry, including—

3 “(A) the steps that have been taken by the  
4 institution to respond to the complaint or in-  
5 quiry;

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

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

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

18 “(4) PROVISION OF INFORMATION.—

19 “(A) IN GENERAL.—An institution of high-  
20 er education that receives funds under this Act  
21 shall, in a timely manner, comply with a re-  
22 quest by the Secretary for information in the  
23 control or possession of such institution con-  
24 cerning a complaint or inquiry received by the  
25 Secretary under subsection (a), including sup-

1           porting written documentation, subject to sub-  
2           paragraph (B).

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

7                   “(i) any nonpublic or confidential in-  
8                   formation, including any confidential com-  
9                   mercial information;

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

15                   “(iii) any information required to be  
16                   kept confidential by any other provision of  
17                   law.

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

23           “(c) TRANSPARENCY.—

24                   “(1) SHARING INFORMATION WITH FEDERAL  
25           AND STATE AGENCIES.—As appropriate and in ac-

1 cordance with section 444 of the General Education  
2 Provisions Act (20 U.S.C. 1232g) (commonly re-  
3 ferred to as the “Family Educational Rights and  
4 Privacy Act of 1974”) and other laws, the Secretary  
5 shall coordinate with the heads of relevant Federal  
6 and State agencies to—

7 “(A) collect complaints related to the com-  
8 plaint tracking system described in subsection  
9 (b) from such agencies; and

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

17 “(2) INTERACTION WITH EXISTING COMPLAINT  
18 SYSTEMS.—To the extent practicable, all procedures  
19 established under this section, and all coordination  
20 carried out under paragraph (1), shall be done in ac-  
21 cordance with the complaint tracking systems estab-  
22 lished under Executive Order 13607 (77 Fed. Reg.  
23 25861; relating to establishing principles of excel-  
24 lence for educational institutions serving



1 servicemembers, veterans, spouses, and other family  
2 members).

3 “(3) PUBLIC INFORMATION.—

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

9 “(i) the number of complaints and in-  
10 quires received;

11 “(ii) the types of complaints and in-  
12 quires received; and

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

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

18 “(i) comply with applicable data pri-  
19 vacy laws and regulations; and

20 “(ii) ensure that personally identifi-  
21 able information is not shared.

22 “(4) REPORTS.—Each year, the Secretary shall  
23 prepare and submit to the authorizing committees a  
24 report describing—

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

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

5           “(C) whether particular types of com-  
6           plaints are more common in a given sector of  
7           postsecondary educational institutions;

8           “(D) any legislative recommendations that  
9           the Secretary determines are necessary to bet-  
10          ter assist students and families; and

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

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

17               “(1) a student of a postsecondary educational  
18               institution;

19               “(2) a family member of a student of a postsec-  
20               ondary educational institution;

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

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

1 **SEC. 7. PROPRIETARY EDUCATION OVERSIGHT COORDINA-**  
2 **TION COMMITTEE.**

3 Title I of the Higher Education Act of 1965 (20  
4 U.S.C. 1001 et seq.), as amended by section 6 of this Act,  
5 is further amended by adding at the end the following new  
6 part:

7 **“PART G—PROPRIETARY EDUCATION**  
8 **OVERSIGHT COORDINATION IMPROVEMENT**

9 **“SEC. 166. DEFINITIONS.**

10 “In this part:

11 “(1) EXECUTIVE OFFICER.—The term ‘execu-  
12 tive officer’, with respect to a proprietary institution  
13 of higher education that is a publicly traded corpora-  
14 tion, means—

15 “(A) the president of such corporation;

16 “(B) a vice president of such corporation  
17 who is in charge of a principal business unit, di-  
18 vision, or function of such corporation (includ-  
19 ing sales, administration, or finance); or

20 “(C) any other officer or person who per-  
21 forms a policy making function for such cor-  
22 poration.

23 “(2) PROPRIETARY INSTITUTION OF HIGHER  
24 EDUCATION.—The term ‘proprietary institution of  
25 higher education’ has the meaning given the term in  
26 section 102(b).

1           “(3) STATE APPROVAL AGENCY.—The term  
2           ‘State approval agency’ means any State agency that  
3           determines whether an institution of higher edu-  
4           cation is legally authorized within such State to pro-  
5           vide a program of education beyond secondary edu-  
6           cation.

7           “(4) VETERANS SERVICE ORGANIZATION.—The  
8           term ‘veterans service organization’ means an orga-  
9           nization recognized by the Secretary of Veterans Af-  
10          fairs for the representation of veterans under section  
11          5902 of title 38, United States Code.

12   **“SEC. 167. ESTABLISHMENT OF COMMITTEE.**

13          “(a) ESTABLISHMENT.—There is established a com-  
14          mittee to be known as the ‘Proprietary Education Over-  
15          sight Coordination Committee’ (referred to in this part as  
16          the ‘Committee’) and to be composed of the head (or the  
17          designee of such head) of each of the following:

18               “(1) The Department of Education.

19               “(2) The Bureau of Consumer Financial Pro-  
20          tection.

21               “(3) The Department of Justice.

22               “(4) The Securities and Exchange Commission.

23               “(5) The Department of Defense.

24               “(6) The Department of Veterans Affairs.

25               “(7) The Federal Trade Commission.

1 “(8) The Department of Labor.

2 “(9) The Internal Revenue Service.

3 “(10) At the discretion of the President, any  
4 other relevant Federal agency or department.

5 “(b) DUTIES.—The Committee shall have the fol-  
6 lowing duties:

7 “(1) Coordinate Federal oversight of propri-  
8 etary institutions of higher education to—

9 “(A) improve enforcement of applicable  
10 Federal laws and regulations;

11 “(B) increase accountability of proprietary  
12 institutions of higher education to students and  
13 taxpayers; and

14 “(C) ensure the promotion of quality edu-  
15 cation programs.

16 “(2) Coordinate Federal activities to protect  
17 students from unfair, deceptive, abusive, unethical,  
18 fraudulent, or predatory practices, policies, or proce-  
19 dures of proprietary institutions of higher education.

20 “(3) Encourage information sharing among  
21 agencies related to Federal investigations, audits, or  
22 inquiries of proprietary institutions of higher edu-  
23 cation.

24 “(4) Increase coordination and cooperation be-  
25 tween Federal and State agencies, including State

1 Attorneys General and State approval agencies, with  
2 respect to improving oversight and accountability of  
3 proprietary institutions of higher education.

4 “(5) Develop best practices and consistency  
5 among Federal and State agencies in the dissemina-  
6 tion of consumer information regarding proprietary  
7 institutions of higher education to ensure that stu-  
8 dents, parents, and other stakeholders have easy ac-  
9 cess to such information.

10 “(c) MEMBERSHIP.—

11 “(1) DESIGNEES.—For any designee described  
12 in subsection (a), the head of the member entity  
13 shall appoint a high-level official who exercises sig-  
14 nificant decisionmaking authority for the oversight  
15 or investigatory activities and responsibilities related  
16 to proprietary institutions of higher education of the  
17 respective Federal entity of such head.

18 “(2) CHAIR.—The Secretary of Education or  
19 the designee of the Secretary shall serve as the  
20 Chair of the Committee.

21 “(3) COMMITTEE SUPPORT.—The head of each  
22 entity described in subsection (a) shall ensure appro-  
23 priate staff and officials of such entity are available  
24 to support the Committee-related work of such enti-  
25 ty.

1   **“SEC. 168. MEETINGS.**

2           “(a) COMMITTEE MEETINGS.—The members of the  
3 Committee shall meet regularly, but not less than once  
4 during each quarter of each fiscal year, to carry out the  
5 duties described in section 167(b).

6           “(b) MEETINGS WITH STATE AGENCIES AND STAKE-  
7 HOLDERS.—The Committee shall meet not less than once  
8 each fiscal year, and shall otherwise interact regularly,  
9 with State Attorneys General, State approval agencies,  
10 veterans service organizations, and consumer advocates to  
11 carry out the duties described in section 167(b).

12   **“SEC. 169. REPORT.**

13           “(a) IN GENERAL.—The Committee shall annually  
14 submit to the authorizing committees, and any other com-  
15 mittee of Congress that the Committee determines appro-  
16 priate, a report on the activities of the Committee.

17           “(b) PUBLIC ACCESS.—Each report described in sub-  
18 section (a) shall be made available to the public in a man-  
19 ner that is easily accessible to parents, students, and other  
20 stakeholders in accordance with the best practices devel-  
21 oped under section 167(b)(5).

22           “(c) CONTENTS.—

23               “(1) IN GENERAL.—Each report under sub-  
24 section (a) shall include—

1           “(A) an accounting of any action taken by  
2           the Federal Government, any member entity of  
3           the Committee, or a State—

4                   “(i) to enforce Federal or State laws  
5                   and regulations applicable to proprietary  
6                   institutions of higher education;

7                   “(ii) to hold proprietary institutions of  
8                   higher education accountable to students  
9                   and taxpayers; and

10                  “(iii) to promote quality education  
11                  programs;

12           “(B) a summary of complaints against  
13           each proprietary institution of higher education  
14           received by any member entity of the Com-  
15           mittee;

16           “(C) the data described in paragraph (2)  
17           and any other data relevant to proprietary insti-  
18           tutions of higher education that the Committee  
19           determines appropriate; and

20           “(D) recommendations of the Committee  
21           for such legislative and administrative actions  
22           as the Committee determines are necessary  
23           to—

24                   “(i) improve enforcement of applicable  
25                   Federal laws;



1 “(ii) increase accountability of propri-  
2 etary institutions of higher education to  
3 students and taxpayers; and

4 “(iii) ensure the promotion of quality  
5 education programs.

6 “(2) DATA.—

7 “(A) INDUSTRY-WIDE DATA.—Each report  
8 under subsection (a) shall include data on all  
9 proprietary institutions of higher education that  
10 consists of information regarding—

11 “(i) the total amount of Federal funds  
12 provided to proprietary institutions of  
13 higher education during the previous aca-  
14 demic year;

15 “(ii) the percentage of the total  
16 amount of Federal funds provided to insti-  
17 tutions of higher education (as defined in  
18 section 102) for such previous academic  
19 year that were provided to proprietary in-  
20 stitutions of higher education for such pre-  
21 vious academic year;

22 “(iii) the total amount of Federal  
23 funds that proprietary institutions of high-  
24 er education disbursed or delivered, on be-  
25 half of a student, or to a student to be

1           used to attend an institution of higher edu-  
2           cation, for the previous academic year,  
3           disaggregated by—

4                   “(I) educational assistance in the  
5                   form of a loan provided under title IV;

6                   “(II) educational assistance in  
7                   the form of a grant provided under  
8                   title IV;

9                   “(III) educational assistance pro-  
10                  vided under chapter 33 of title 38,  
11                  United States Code;

12                  “(IV) tuition assistance provided  
13                  under section 2007 of title 10, United  
14                  States Code;

15                  “(V) assistance provided under  
16                  section 1784a of title 10, United  
17                  States Code; and

18                  “(VI) Federal funds not de-  
19                  scribed in subclauses (I) through (V);

20                  “(iv) the percentage of the total  
21                  amount of Federal funds provided to insti-  
22                  tutions of higher education (as defined in  
23                  section 102) for such previous academic  
24                  year for each of the programs described in  
25                  subclauses (I) through (V) of clause (iii)

1 that were provided to proprietary institu-  
2 tions of higher education for such previous  
3 academic year for each of such programs;

4 “(v) the average retention and grad-  
5 uation rates for students pursuing a degree  
6 at proprietary institutions of higher edu-  
7 cation;

8 “(vi) the average cohort default rate  
9 (as defined in section 435(m)) for propri-  
10 etary institutions of higher education, and  
11 an annual list of cohort default rates (as  
12 defined in such section) for all proprietary  
13 institutions of higher education;

14 “(vii) for careers requiring the pas-  
15 sage of a licensing examination—

16 “(I) the passage rate of individ-  
17 uals who attended a proprietary insti-  
18 tution of higher education taking such  
19 examination to pursue such a career;  
20 and

21 “(II) the passage rate of all indi-  
22 viduals taking such exam to pursue  
23 such a career; and

1 “(viii) the use of private education  
2 loans at proprietary institutions of higher  
3 education that includes—

4 “(I) an estimate of the total  
5 number of such loans; and

6 “(II) information on the average  
7 debt, default rate, and interest rate of  
8 such loans.

9 “(B) DATA ON PUBLICLY TRADED COR-  
10 PORATIONS.—

11 “(i) IN GENERAL.—Each report under  
12 subsection 9(a) shall include data on pro-  
13 prietary institutions of higher education  
14 that are publicly traded corporations, con-  
15 sisting of information on—

16 “(I) any pre-tax profit of such  
17 proprietary institutions of higher edu-  
18 cation—

19 “(aa) reported as a total  
20 amount and an average percent-  
21 age of revenue for all such pro-  
22 prietary institutions of higher  
23 education; and

1 “(bb) reported for each such  
2 proprietary institution of higher  
3 education;

4 “(II) revenue for such propri-  
5 etary institutions of higher education  
6 spent on recruiting and marketing ac-  
7 tivities, student instruction, and stu-  
8 dent support services, reported—

9 “(aa) as a total amount and  
10 an average percentage of revenue  
11 for all such proprietary institu-  
12 tions of higher education; and

13 “(bb) for each such propri-  
14 etary institution of higher edu-  
15 cation;

16 “(III) total compensation pack-  
17 ages of the executive officers of each  
18 such proprietary institution of higher  
19 education; and

20 “(IV) a list of institutional loan  
21 programs offered by each such propri-  
22 etary institution of higher education  
23 that includes information on the de-  
24 fault and interest rates of such pro-  
25 grams.

1                   “(ii) DISAGGREGATED BY OWNER-  
2                   SHIP.—Each report under subsection (a)  
3                   shall include data on proprietary institu-  
4                   tions of higher education that are publicly  
5                   traded corporations, disaggregated by cor-  
6                   porate or parent entity, brand name, and  
7                   campus, consisting of—

8                   “(I) the total cost of attendance  
9                   for each program at each such propri-  
10                  etary institution of higher education,  
11                  and information comparing such total  
12                  cost for each such program to—

13                  “(aa) the average cost of at-  
14                  tendance for each program at  
15                  public institutions of higher edu-  
16                  cation; and

17                  “(bb) the average total cost  
18                  of attendance for each program  
19                  at all nonprofit institutions of  
20                  higher education;

21                  “(II) total enrollment, disaggre-  
22                  gated by—

23                  “(aa) individuals enrolled in  
24                  programs taken online; and

1 “(bb) individuals enrolled in  
2 programs that are not taken on-  
3 line;

4 “(III) the average retention and  
5 graduation rates for students pur-  
6 suing a degree at such proprietary in-  
7 stitutions of higher education;

8 “(IV) the percentage of students  
9 enrolled in such proprietary institu-  
10 tions of higher education who com-  
11 plete a program of such an institution  
12 within—

13 “(aa) the standard period of  
14 completion for such program; and

15 “(bb) a period that is 150  
16 percent of such standard period  
17 of completion;

18 “(V) the total cost of attendance  
19 for each program at such proprietary  
20 institutions of higher education;

21 “(VI) the average cohort default  
22 rate, as defined in section 435(m), for  
23 such proprietary institutions of higher  
24 education, and an annual list of co-  
25 hort default rates (as defined in such

1 section) for all proprietary institutions  
2 of higher education;

3 “(VII) the median educational  
4 debt incurred by students who com-  
5 plete a program at such a proprietary  
6 institution of higher education;

7 “(VIII) the median educational  
8 debt incurred by students who start  
9 but do not complete a program at  
10 such a proprietary institution of high-  
11 er education;

12 “(IX) the job placement rate for  
13 students who complete a program at  
14 such a proprietary institution of high-  
15 er education and the type of employ-  
16 ment obtained by such students;

17 “(X) for careers requiring the  
18 passage of a licensing examination,  
19 the rate of individuals who attended  
20 such a proprietary institution of high-  
21 er education and passed such an ex-  
22 amination; and

23 “(XI) the number of complaints  
24 from students enrolled in such propri-  
25 etary institutions of higher education



1           who have submitted a complaint to  
2           any member entity of the Committee.

3           “(iii) DEPARTMENT OF DEFENSE AND  
4           VETERANS AFFAIRS ASSISTANCE.—

5                   “(I) IN GENERAL.—To the extent  
6                   practicable, each report under sub-  
7                   section (a) shall provide information  
8                   on the data described in clause (ii) for  
9                   individuals using, to pay for the costs  
10                  of attending such a proprietary insti-  
11                  tution of higher education, Federal  
12                  funds provided under title 10, United  
13                  States Code, or title 38, United States  
14                  Code.

15                  “(II) REVENUE.—Each report  
16                  under subsection (a) shall provide in-  
17                  formation on the revenue of propri-  
18                  etary institutions of higher education  
19                  that are publicly traded corporations  
20                  that is derived from the Federal funds  
21                  described in subclause (I).

22                  “(C) COMPARISON DATA.—To the extent  
23                  practicable, each report under subsection (a)  
24                  shall provide information comparing the data  
25                  described in subparagraph (B) for proprietary

1 institutions of higher education that are pub-  
2 licly traded corporations with such data for  
3 public institutions of higher education disaggre-  
4 gated by State.

5 “(3) ACCOUNTING OF ANY ACTION.—For the  
6 purposes of paragraph (1)(A), the term ‘any action’  
7 shall include—

8 “(A) a complaint filed by a Federal or  
9 State agency in a Federal, State, local, or tribal  
10 court;

11 “(B) an administrative proceeding by a  
12 Federal or State agency involving noncompli-  
13 ance of any applicable law or regulation; or

14 “(C) any other review, audit, or adminis-  
15 trative process by any Federal or State agency  
16 that results in a penalty, suspension, or termi-  
17 nation from any Federal or State program.

18 **“SEC. 170. WARNING LIST FOR PARENTS AND STUDENTS.**

19 “(a) IN GENERAL.—Each academic year, the Com-  
20 mittee shall publish a list to be known as the ‘Warning  
21 List for Parents and Students’ to be comprised of propri-  
22 etary institutions of higher education—

23 “(1) that have engaged in illegal activity during  
24 the previous academic year as determined by a Fed-  
25 eral or State court;

1           “(2) that have entered into a settlement result-  
2           ing in a monetary payment for an unfair, deceptive,  
3           abusive, unethical, fraudulent, or predatory practice,  
4           policy, or procedure;

5           “(3) that have had any higher education pro-  
6           gram withdrawn or suspended; or

7           “(4) for which the Committee has sufficient evi-  
8           dence of widespread or systemic unfair, deceptive,  
9           abusive, unethical, fraudulent, or predatory prac-  
10          tices, policies, or procedures that pose a threat to  
11          the academic success, financial security, or general  
12          best interest of students.

13          “(b) DETERMINATIONS.—In making a determination  
14          pursuant to subsection (a)(4), the Committee may con-  
15          sider evidence that includes the following:

16               “(1) Any consumer complaint collected by any  
17               member entity of the Committee.

18               “(2) Any complaint filed by a Federal or State  
19               agency in a Federal, State, local, or tribal court.

20               “(3) Any administrative proceeding by a Fed-  
21               eral or State agency involving noncompliance of any  
22               applicable law or regulation.

23               “(4) Any other review, audit, or administrative  
24               process by any Federal or State agency that results

1 in a penalty, suspension, or termination from any  
2 Federal or State program.

3 “(5) Data or information submitted by a pro-  
4 prietary institution of higher education to any ac-  
5 crediting agency or association recognized by the  
6 Secretary of Education pursuant to section 496 or  
7 the findings or adverse actions of any such accred-  
8 iting agency or association.

9 “(6) Information submitted by a proprietary in-  
10 stitution of higher education to any member entity  
11 of the Committee.

12 “(7) Any other evidence that the Committee de-  
13 termines relevant in making a determination pursu-  
14 ant to subsection (a)(4).

15 “(c) PUBLICATION.—

16 “(1) IN GENERAL.—Not later than July 1 of  
17 each fiscal year, the Committee shall publish the list  
18 described in subsection (a) prominently and in a  
19 manner that is easily accessible to parents, students,  
20 and other stakeholders in accordance with any best  
21 practices developed under section 167(b)(5).

22 “(2) NOTICE OF SELF REPORTING.—In pub-  
23 lishing the list in accordance with paragraph (1), the  
24 Committee shall note each institution that is in-

1       cluded on the list due to an act described in sub-  
 2       section (a) that was reported by such institution.”.

3   **SEC. 8. 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. 9. 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. 10. 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. 11. 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. 12. 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  
19                       awarding financial aid;

20                       “(ii) performance in educational  
21                       coursework;

22                       “(iii) graduation;

23                       “(iv) job placement; or

1           “(v) any other academic facet of a stu-  
2           dent’s enrollment in an institution of higher  
3           education.

4           “(B) The requirements of subparagraph (A)  
5           shall not apply to the recruitment of foreign stu-  
6           dents residing in foreign countries who are not eligi-  
7           ble to receive Federal student assistance.”; and

8           (C) by adding at the end the following new  
9           paragraphs:

10          “(30)(A) The institution—

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

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

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

1           “(31)(A) If the institution has a student default  
2           risk for a fiscal year, as calculated by the Secretary,  
3           of 0.1 or greater, the institution will, for such  
4           year—

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

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

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

1                   “(I) the individual’s right to the 2-  
2                   week waiting period under clause (i) begin-  
3                   ning on the date that the individual re-  
4                   ceives notification of the acceptance; and

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

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

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

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

24                  “(C) Notwithstanding subparagraph (A), the  
25                  Secretary may, after providing notice and an oppor-

1 tunity to comment, elect to replace the use of the  
 2 student default risk percentage threshold established  
 3 under subparagraph (A) with a loan repayment rate  
 4 threshold calculated in accordance with section  
 5 483D(b).”; and

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

9 **SEC. 13. IMPROVED DISCLOSURES FOR CLINICAL TRAIN-**  
 10 **ING PROGRAMS.**

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

14 “(n) REPORTS RELATING TO CLINICAL TRAINING  
 15 PROGRAMS.—

16 “(1) REPORT ON CLINICAL TRAINING PROGRAM  
 17 AGREEMENTS.—

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



1 the eligible institution has an agreement with a  
2 hospital or health facility, through which—

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

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

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

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

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

1           “(ii) Any conditions associated with  
2           the transfer of money or the provision of  
3           clinical training program opportunities  
4           that are part of the agreement described in  
5           subparagraph (A).

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

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

22          “(2) REPORT ON CHARITABLE DONATIONS.—

23                 “(A) IN GENERAL.—Beginning in the year  
24                 in which the Protections and Regulation for  
25                 Our Students Act is enacted, and annually

1           thereafter, an eligible institution shall prepare  
2           and submit to the Secretary a report containing  
3           the information described in subparagraph (C)  
4           if—

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

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

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

1           “(C) CONTENTS OF REPORT.—The report  
2           described in this paragraph shall include the  
3           following:

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

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

13                          “(I) during the year in which the  
14                          report is submitted; and

15                          “(II) during the first year in the  
16                          previous 3-year period covered by the  
17                          report.

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

1 paragraph (2), the institution may submit a single  
2 report for that year containing all of the information  
3 required under paragraphs (1) and (2).

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

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

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

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

1           lated pre-condition necessary under Federal or  
2           State law for a health profession.

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

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

9   **SEC. 14. CIVIL PENALTIES.**

10       Part G of title IV of the Higher Education Act of  
11       1965 (20 U.S.C. 1088 et seq.) is amended by inserting  
12       after section 489 the following new section:

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

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

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

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

1           “(A) in the case of a first violation, an  
2           amount equal to the product of \$1,000,000  
3           multiplied by the institution’s student default  
4           risk, whichever is larger;

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

9           “(C) in the case of a third or subsequent  
10          violation, an amount equal to the product of  
11          \$3,000,000 multiplied by the institution’s stu-  
12          dent default risk, whichever is larger.

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

23          “(b) SANCTIONS FOR OTHER VIOLATIONS OF THIS  
24          TITLE.—Upon determination, after reasonable notice and  
25          opportunity for a hearing, that an eligible institution has

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

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

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



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

16          “(d) LIMITATION, SUSPENSION, OR TERMINATION OF  
17          ELIGIBILITY STATUS.—

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

1       minate the participation in any program under this  
2       title of an eligible institution, subject to the require-  
3       ments of paragraph (2).

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

10       “(e) EMERGENCY ACTION.—

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

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

1           “(B) determines that immediate action is  
2           necessary to prevent misuse of Federal funds;  
3           and

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

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

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

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

1 and has found the institution to be in compliance with this  
2 title.

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

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

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

14 “(A) the appropriateness of the penalty to  
15 the size of the institution of higher education  
16 subject to the determination; and

17 “(B) the gravity of the violation, failure, or  
18 misrepresentation.

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

22 “(i) DISPOSITION OF AMOUNTS RECOVERED.—

23 “(1) IN GENERAL.—Amounts collected under  
24 this section shall be transferred to the Secretary,

1       who shall determine the distribution of collected  
2       amounts, in accordance with paragraphs (2) and (3).

3               “(2) USE FOR PROGRAM INTEGRITY EFFORTS  
4       AND PROGRAM REVIEWS.—

5               “(A) IN GENERAL.—For each fiscal year,  
6       an amount equal to not more than 50 percent  
7       of the amounts recovered or collected under this  
8       section—

9               “(i) shall be available to the Secretary  
10       to carry out program reviews under section  
11       498A and other efforts by the Secretary  
12       related to program integrity under part H;  
13       and

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

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

1           “(C) AVAILABILITY FOR FUNDS.—Any  
2           amounts collected under this section that are  
3           made available under paragraph (2) shall re-  
4           main available until expended.

5           “(3) USE FOR STUDENT RELIEF FUND.—For  
6           each fiscal year, an amount equal to not less than  
7           50 percent of the amounts recovered or collected  
8           under this section shall be deposited into the Stu-  
9           dent Relief Fund established under subsection (k).

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

13               “(A) the amount of funds that were dis-  
14               tributed for the purposes described in para-  
15               graph (2) and the amount used for the Student  
16               Relief Fund under paragraph (3); and

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

19          “(j) STUDENT RELIEF FUND.—

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

1           “(A) has failed to comply with an eligi-  
 2           bility requirement under section 101 or 102 or  
 3           an obligation incurred under the terms of the  
 4           program participation agreement under section  
 5           487; or

6           “(B) has been sanctioned under subsection  
 7           (b) or (c).

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

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

15           “(B) may issue regulations regarding how  
 16           the amounts in the Fund will be distributed  
 17           among students eligible for the funds.

18           “(3) TREATMENT AND AVAILABILITY OF  
 19          FUNDS.—

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

24           “(B) AMOUNTS NOT SUBJECT TO APPOR-  
 25          TIONMENT.—Notwithstanding any other provi-

1 sion of law, amounts in the Fund shall not be  
2 subject to apportionment for purposes of chap-  
3 ter 15 of title 31, United States Code, or under  
4 any other authority.

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

9 “(4) INVESTMENTS.—

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

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

23 “(C) INTEREST AND PROCEEDS CRED-  
24 ITED.—The interest on, and the proceeds from



1           the sale or redemption of, any obligations held  
2           in the Fund shall be credited to the Fund.

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

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

12          “(k) STATE ENFORCEMENT.—

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

24               “(2) NOTICE REQUIRED.—

1           “(A) IN GENERAL.—Before initiating any  
2           action in a court or other administrative or reg-  
3           ulatory proceeding against any institution of  
4           higher education as authorized by paragraph  
5           (1) to enforce any provision of this subsection,  
6           including any regulation promulgated by the  
7           Secretary under this subsection, a State attor-  
8           ney general shall timely provide a copy of the  
9           complete complaint to be filed and written no-  
10          tice describing such action or proceeding to the  
11          Secretary, except as provided in subparagraph  
12          (B).

13           “(B) EMERGENCY ACTION.—If prior notice  
14          of the initiation of an action or administrative  
15          or regulatory proceeding required under sub-  
16          paragraph (A) is not practicable, the State at-  
17          torney general shall provide a copy of the com-  
18          plete complaint and the notice to the Secretary  
19          immediately upon instituting the action or pro-  
20          ceeding.

21           “(C) CONTENTS OF NOTICE.—The notifi-  
22          cation required under this subparagraph shall  
23          include—

24                   “(i) the identity of the parties;

1 “(ii) the alleged facts underlying the  
2 proceeding; and

3 “(iii) whether there may be a need to  
4 coordinate the prosecution of the pro-  
5 ceeding so as not to interfere with any ac-  
6 tion, including any rulemaking, undertaken  
7 by the Secretary or another Federal agen-  
8 cy.

9 “(3) REGULATIONS.—The Secretary shall pre-  
10 scribe regulations to implement the requirements of  
11 this subsection and periodically provide guidance to  
12 further coordinate actions with the State attorneys  
13 general.

14 “(4) PRESERVATION OF STATE AUTHORITY.—

15 “(A) STATE CLAIMS.—Nothing in this sub-  
16 section shall be construed as altering, limiting,  
17 or affecting the authority of a State attorney  
18 general or any other regulatory or enforcement  
19 agency or authority to bring an action or other  
20 regulatory proceeding arising solely under the  
21 law in effect in that State.

22 “(B) RELIEF.—

23 “(i) IN GENERAL.—Relief under this  
24 subsection may include, without limita-  
25 tion—

1 “(I) rescission or reformation of  
2 contracts;

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

5 “(III) restitution;

6 “(IV) disgorgement or compensa-  
7 tion for unjust enrichment;

8 “(V) payment of damages or  
9 other monetary relief pursuant to the  
10 requirements of paragraph (2);

11 “(VI) public notification regard-  
12 ing the violation, including the costs  
13 of notification; and

14 “(VII) limits on the activities or  
15 functions of the person.

16 “(ii) EXCLUSION.—Relief under this  
17 subsection shall not include the ability to  
18 suspend or terminate the eligibility status  
19 of an institution of higher education for  
20 programs under this title.

21 “(l) DEFINITIONS.—In this section:

22 “(1) OFFICER OF AN INSTITUTION OF HIGHER  
23 EDUCATION.—The term ‘officer of an institution of  
24 higher education’ includes the president, chief execu-

1       tive officer, and chief financial officer of an institu-  
2       tion of higher education or their equivalents.

3               “(2) SUBSTANTIAL MISREPRESENTATION OR  
4       OTHER SERIOUS VIOLATION.—The term ‘substantial  
5       misrepresentation or other serious violation’ means  
6       any of the following:

7               “(A) A substantial misrepresentation re-  
8       garding—

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

11               “(ii) the financial charges of the insti-  
12       tution;

13               “(iii) the space availability in a pro-  
14       gram of the institution for which a student  
15       is considering enrollment;

16               “(iv) the admission requirements of  
17       the institution;

18               “(v) the transferability of credits from  
19       the institution;

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

1 “(vii) the passage rates of students at  
2 the institution in obtaining certification re-  
3 quirements;

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

6 “(ix) the employability of the grad-  
7 uates of the institution.

8 “(B) Failure of an institution subject to  
9 the requirements of section 487(a)(32) to com-  
10 ply with such section.

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

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

14 “(E) A violation of the default manipula-  
15 tion regulations promulgated by the Secretary  
16 under section 435(m)(3).

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

21 “(G) A violation of the program integrity  
22 regulations promulgated by the Secretary under  
23 this Act.

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

4   **SEC. 15. REQUIREMENTS FOR ACCREDITING AGENCIES OR**  
 5           **ASSOCIATIONS.**

6           Section 496(a) of the Higher Education Act of 1965  
 7   (20 U.S.C. 1099b(a)) is amended—

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

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

12          (3) by adding at the end the following new  
 13          paragraph:

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

18   **SEC. 16. PROGRAM REVIEW AND DATA.**

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

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

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

24           “(1) IN GENERAL.—The Secretary—

1           “(A) may conduct program reviews, includ-  
 2           ing on-site visits, of each institution of higher  
 3           education participating in a program authorized  
 4           under this title; and

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

10          “(2) MANDATORY REVIEWS.—

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

16           “(i) The Secretary determines that—

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

22                   “(II) the institution has a cohort  
 23                   default rate, as defined in section  
 24                   435(m), that is more than 20 percent.

25           “(ii) The Secretary determines that—



1           “(I) the institution has a cohort  
2           default rate, as defined in section  
3           435(m), that exceeds the national av-  
4           erage, as determined by the Secretary  
5           in accordance with such section; and

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

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

21          “(iv) The institution is among the top  
22          1 percent of institutions participating in  
23          programs authorized under this title in  
24          terms of numbers or rates of complaints  
25          related to Federal student financial aid,

1 educational practices and services, or re-  
2 cruiting and marketing practices, as re-  
3 ported in the complaint tracking system  
4 established under section 161.

5 “(v) As of the date of the determina-  
6 tion, the institution is among the top 1  
7 percent of institutions in terms of low  
8 graduation rates, as determined by the  
9 Secretary, of all institutions participating  
10 in programs authorized under this title.

11 “(vi) The institution spends more  
12 than 20 percent of the institution’s reve-  
13 nues on recruiting and marketing activities  
14 and executive compensation.

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

18 “(I) the institution’s loan de-  
19 faults increased by 50 percent or  
20 more as compared to the preceding  
21 period; and

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

1 “(viii) The institution, or an executive  
2 of the institution, has publicly acknowl-  
3 edged or disclosed that the institution—

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

8 “(II) is being investigated re-  
9 garding a potential violation of such  
10 provision of law.

11 “(ix) The institution—

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

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

24 “(B) PUBLICATION OF INSTITUTIONS RE-  
25 VIEWED.—The Secretary shall—

1 “(i) post, on a publicly available  
2 website, the name of each institution of  
3 higher education that is reviewed under  
4 subparagraph (A);

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

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

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

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

1 under subsection (c)(5)(C), whichever oc-  
2 curs sooner;

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

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

21 “(3) RISK-BASED REVIEWS.—

22 “(A) IN GENERAL.—The Secretary shall  
23 use a risk-based approach to select, on an an-  
24 nual basis not less than 2 percent of institu-  
25 tions of higher education participating in a pro-

1           gram authorized under this title that are not  
2           reviewed under paragraph (2), for a program  
3           review. Such approach shall prioritize program  
4           reviews of institutions that—

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

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

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

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

24                  “(v) have high rates of defaults, rel-  
25                  ative to all other institutions of higher edu-

1 cation participating in a program author-  
2 ized under this title, for loans issued under  
3 this title over the lifetime of the loans;

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

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

12 “(viii) have a high proportion or high  
13 rate of complaints related to Federal stu-  
14 dent financial aid, educational practices  
15 and services, or recruiting and marketing  
16 practices, as reported in the complaint  
17 tracking system established under section  
18 161;

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

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

24 “(xi) are spending a large percentage  
25 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) FEDERAL FUNDS.—The term ‘Federal  
21               funds’ means any Federal funds provided, under this  
22               Act or any other Federal law, through a grant, con-  
23               tract, subsidy, loan, guarantee, insurance, or other  
24               means to a proprietary institution, including Federal  
25               funds disbursed or delivered to an institution or on

1       behalf of a student or to a student to be used to at-  
2       tend the institution, except that such term shall not  
3       include any monthly housing stipend provided under  
4       the Post-9/11 Educational Assistance Program  
5       under chapter 33 of title 38, United States Code.

6               “(3) RELEVANT FEDERAL AGENCY.—The term  
7       ‘relevant Federal agency’ means—

8               “(A) the Department of Education;

9               “(B) the Department of Veterans Affairs;

10              “(C) the Department of Defense;

11              “(D) the Bureau of Consumer Financial  
12       Protection;

13              “(E) the Federal Trade Commission; or

14              “(F) any other Federal agency that pro-  
15       vides Federal student assistance or that the  
16       Secretary determines appropriate.

17               “(4) RELEVANT STATE ENTITY OR AGENCY.—  
18       The term ‘relevant State entity or agency’ means—

19              “(A) an appropriate State licensing or au-  
20       thorizing agency;

21              “(B) the attorney general (or the equiva-  
22       lent thereof) of the State; or

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

1 **SEC. 17. CONSUMER PROTECTIONS FOR STUDENTS.**

2 (a) DEFINITIONS.—In this section:

3 (1) FEDERAL FINANCIAL ASSISTANCE PRO-  
4 GRAM.—The term “Federal financial assistance pro-  
5 gram” means a program that provides Federal edu-  
6 cation assistance funds, as described in section 103  
7 of the Higher Education Act of 1965 (20 U.S.C.  
8 1003), to any postsecondary educational institution.

9 (2) POSTSECONDARY EDUCATIONAL INSTITU-  
10 TION.—The term “postsecondary educational institu-  
11 tion” means an educational institution that awards  
12 a degree or certificate and is located in any State  
13 and includes—

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

17 (B) a postsecondary educational institu-  
18 tion, as defined in section 203 of the Adult  
19 Education and Family Literacy Act (29 U.S.C.  
20 3272); and

21 (C) an educational institution, as defined  
22 under section 3452 of title 38, United States  
23 Code.

24 (3) STATE.—

25 (A) STATE.—The term “State” includes,  
26 in addition to the several States of the United

1 States, the Commonwealth of Puerto Rico, the  
2 District of Columbia, Guam, American Samoa,  
3 the United States Virgin Islands, the Common-  
4 wealth of the Northern Mariana Islands, and  
5 the freely associated States.

6 (B) FREELY ASSOCIATED STATES.—The  
7 term “freely associated States” means the Re-  
8 public of the Marshall Islands, the Federated  
9 States of Micronesia, and the Republic of  
10 Palau.

11 (b) CONSUMER PROTECTIONS.—Notwithstanding  
12 any other provision of law, a postsecondary educational  
13 institution is not eligible to participate in a Federal finan-  
14 cial assistance program with respect to any program of  
15 postsecondary education or training, including a degree or  
16 certificate program, that is designed to prepare students  
17 for entry into a recognized occupation or profession that  
18 requires licensing or other established requirements as a  
19 pre-condition for entry into such occupation or profession,  
20 unless—

21 (1) the successful completion of the program  
22 fully qualifies a student, in the Metropolitan Statis-  
23 tical Area in which the student resides, to—

24 (A) take any examination required for  
25 entry into the recognized occupation or profes-

1           sion in the Metropolitan Statistical Area in  
2           which the student resides, including satisfying  
3           all State or professionally mandated pro-  
4           grammatic and specialized accreditation re-  
5           quirements, if any; and

6                   (B) be certified or licensed or meet any  
7           other academically related pre-conditions that  
8           are required for entry into the recognized occu-  
9           pation or profession in the Metropolitan Statis-  
10          tical Area in which the student resides; and

11          (2) the institution offering the program pro-  
12          vides timely placement for all of the academically re-  
13          lated pre-licensure requirements for entry into the  
14          recognized occupation or profession in the Metropoli-  
15          tan Statistical Area in which the student resides,  
16          such as clinical placements, internships, or appren-  
17          ticeships.

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

○