

113TH CONGRESS  
1ST SESSION

S. \_\_\_\_\_

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

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IN THE SENATE OF THE UNITED STATES

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

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**A BILL**

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

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Students First Act  
5       of 2013”.

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

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

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

2       “(a) DEFINITIONS.—In this section:

3           “(1) DEFAULT MANIPULATION.—

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

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

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

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

5           “(A) This title.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 “(A) the Department of Education;  
12 “(B) the Department of Veterans Affairs;  
13 “(C) the Department of Defense;  
14 “(D) the Consumer Financial Protection  
15 Bureau;

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

20 “(6) RELEVANT STATE ENTITY OR AGENCY.—  
21 The term ‘relevant State entity or agency’ means—

22 “(A) an appropriate State licensing or au-  
23 thorizing agency;  
24 “(B) a State Attorney General; or

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

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

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

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

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

1               “(2) MANDATORY REVIEWS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6           “(3) RISK-BASED REVIEWS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14       **“(6) INSTITUTIONAL DISCLOSURE OF VIOLA-**  
15       **TIONS.**—Each institution of higher education that is

16       found to have violated a provision of this title know-  
17       ingly and willfully or with gross negligence shall—

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

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

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

16               “(c) CHARACTERISTICS OF PROGRAM REVIEWS.—

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

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

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

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

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

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

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

1                 “(ii) violated section 487(a)(20);  
2                 “(iii) engaged in substantial misrepre-  
3                 sentation of the nature of its educational  
4                 program, its financial charges, or the em-  
5                 ployability of its graduates; or  
6                 “(iv) violated the Department’s pro-  
7                 gram integrity regulations.

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

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

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

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

20                 “(5) ADMINISTRATIVE PROCESS.—

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

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

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

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

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

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

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

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

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

24                  “(C) FINAL PROGRAM REVIEW REPORT.—

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

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

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

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

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

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

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

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

23                    “(d) SANCTIONS.—

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

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

4           **“(2) AVAILABLE SANCTIONS.—**

5           **“(A) CRITERIA.—**

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

19               “(ii) PARAMETERS OF SANCTIONS.—

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

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

25               “(II) take into account—

1                         “(aa) the severity of the vio-  
2                         lation of this title;  
3                         “(bb) whether the institution  
4                         violated this title knowingly and  
5                         willfully or with gross negligence;  
6                         “(cc) whether the violation  
7                         represents a persistent and docu-  
8                         mented pattern of violating this  
9                         title; and  
10                         “(dd) the extent of the harm  
11                         or potential harm that such viola-  
12                         tions caused or had the potential  
13                         to cause upon students and bor-  
14                         rowers.

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

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

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

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

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

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

16                 “(B) violated section 487(a)(20);

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

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

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

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

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

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

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

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

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

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

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

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

9                 “(C) STUDENT RELIEF FUND.—

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

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

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

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

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

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

19                “(A) available to the Department;  
20                “(B) made available to the Secretary by  
21                the heads of relevant Federal agencies;  
22                “(C) from accrediting agencies or associa-  
23                tions; and  
24                “(D) available from a guaranty agency.

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

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

12           “(4) COMPLAINT TRACKING.—

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

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

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

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

10 “(D) PARTICIPATION OF INSTITUTIONS.—

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

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

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

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

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

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

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

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

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

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

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