

113TH CONGRESS  
2D SESSION

# S. 2993

To amend the Higher Education Act of 1965 to improve the determination of cohort default rates and provide for enhanced civil penalties, and to authorize the establishment of an institutional risk-sharing commission.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 10, 2014

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

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## A BILL

To amend the Higher Education Act of 1965 to improve the determination of cohort default rates and provide for enhanced civil penalties, and to authorize the establishment of an institutional risk-sharing commission.

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 Before Prof-  
5 its Act”.

1 **SEC. 2. IMPROVED DETERMINATION OF COHORT DEFAULT**  
2 **RATES.**

3 Section 435 (20 U.S.C. 1085) is amended—

4 (1) in subsection (a)(2), by adding at the end  
5 the following:

6 “(E)(i) In any case where the Secretary has de-  
7 termined that the institution has engaged in default  
8 manipulation, the Secretary—

9 “(I) shall recalculate the cohort default  
10 rate for the institution under this section using  
11 corrected data and information, for all fiscal  
12 years for which the default manipulation has  
13 occurred; and

14 “(II) using the recalculated cohort default  
15 rate, shall redetermine whether the institution  
16 is ineligible to participate in a program under  
17 this title.

18 “(ii) In this section, the term ‘default manipu-  
19 lation’ means engaging in a device or practice, such  
20 as branching, consolidation of campuses, consolida-  
21 tion or manipulation of the identification codes used  
22 by the Office of Postsecondary Education to des-  
23 ignate campuses and institutions, change of owner-  
24 ship or control, serial forbearance, or any similar de-  
25 vice or practice (as determined by the Secretary)  
26 when, but for the device or practice, one or more

1 campuses of an institution of higher education would  
2 be at risk of cohort default rate sanctions under this  
3 section or student default risk sanctions under sec-  
4 tion 489A.”; and

5 (2) in subsection (m)(3), by striking “through  
6 the use of” and all that follows through the period  
7 at the end and inserting “through default manipula-  
8 tion.”.

9 **SEC. 3. INSTITUTIONAL RISK-SHARING COMMISSION.**

10 (a) ESTABLISHMENT OF COMMISSION.—

11 (1) IN GENERAL.—The Secretary of Education  
12 shall establish an Institutional Risk-Sharing Com-  
13 mission (referred to in this section as the “Commis-  
14 sion”) whose members shall be selected by the Sec-  
15 retary and comprised of the following relevant stake-  
16 holders:

17 (A) 2 representatives of national or re-  
18 gional student advocacy organizations with a  
19 track record of engagement and expertise on  
20 issues related to college costs, consumer protec-  
21 tion, and institutional accountability and an al-  
22 ternate member.

23 (B) 1 student representative who is attend-  
24 ing an institution of higher education on the  
25 date of the selection and an alternate member.

1 (C) 1 member of the Bureau of Consumer  
2 Financial Protection with demonstrated knowl-  
3 edge of student loan borrowing and an alternate  
4 member.

5 (D) 2 administrative officers from different  
6 types of institutions of higher education and an  
7 alternate member.

8 (E) 1 higher education researcher and an  
9 alternate member.

10 (F) 1 State postsecondary education data  
11 system director and an alternate member.

12 (G) 1 representative from the National  
13 Center for Education Statistics and an alter-  
14 nate member.

15 (H) 1 representative from the Government  
16 Accountability Office and an alternate member.

17 (I) 1 representative from the Department  
18 of the Treasury and an alternate member.

19 (2) FUNCTIONS.—Each member selected under  
20 paragraph (1) shall participate for the purpose of  
21 determining agreement by majority vote on the Com-  
22 mission on the report and its contents described in  
23 subsection (b)(4). Each alternate member shall par-  
24 ticipate for the purpose of determining the majority  
25 vote in the absence of the member. Either the mem-

1 ber or an alternate member may speak during the  
2 negotiations. In the event that the Commission is  
3 unable to form agreement on the contents of the re-  
4 port by majority vote, the contents of the report  
5 shall be determined by a plurality vote.

6 (b) STUDY.—

7 (1) IN GENERAL.—Not later than 270 days  
8 after the date that all members of the Commission  
9 have been selected under subsection (a), the Com-  
10 mission shall complete a study and develop rec-  
11 ommendations for implementation of a new risk-  
12 sharing system for institutions of higher education  
13 that participate in the Federal Direct Loan Program  
14 under part D of title IV of the Higher Education  
15 Act of 1965 (20 U.S.C. 1087a et seq.) through  
16 which institutions would be held financially account-  
17 able for poor student outcomes.

18 (2) CONTENT OF STUDY.—In conducting the  
19 study required under paragraph (1), the Commission  
20 shall, at a minimum, consider the following issues:

21 (A) Identifying an annual measure or set  
22 of measures for the risk-sharing system that  
23 would provide the most accurate assessment of  
24 an institution's level of success or failure at  
25 providing their students with basic educational

1 outcomes, such as degree completion, ability to  
2 repay loans made, insured, or guaranteed under  
3 title IV of the Higher Education Act of 1965  
4 (20 U.S.C. 1070 et seq.), post-graduation em-  
5 ployment, and post-graduation earnings. Such  
6 possible measures may include cohort default  
7 rates, loan repayment rates, graduation rates,  
8 graduate earnings, and other measure that the  
9 Commission considers an accurate reflection of  
10 student outcomes, regardless of the feasibility  
11 of access to the data required to implement col-  
12 lection of such measures.

13 (B) What specific metrics would require  
14 the lowest performing institutions to make an-  
15 nual payments into the risk-sharing system,  
16 and what metrics would exempt institutions  
17 from making an annual risk-sharing payment  
18 based on performance measures that exceeded a  
19 minimum level (which level would be identified  
20 by the Commission).

21 (C) How the payments for each institution  
22 should be calculated, including whether the use  
23 of a percentage of Federal Direct Loans dis-  
24 bursed the year prior to identification, the per-

1           centage of loans in default, or any other cal-  
2           culation should be used.

3           (D) Whether a sliding scale of payments  
4           should be required of institutions based on their  
5           performance on the identified measures.

6           (E) Any legislative safeguards or mecha-  
7           nisms to ensure that an institution required to  
8           participate in the risk-sharing system would not  
9           pass any prospective costs directly or indirectly  
10          onto students, or limit access to low-income stu-  
11          dents.

12          (F) How an institution's level of access to  
13          low-income students (such as measured by the  
14          percentage of students enrolled at the institu-  
15          tion who receive Federal Pell Grants under sub-  
16          part 1 of part A of title IV of the Higher Edu-  
17          cation Act of 1965 (20 U.S.C. 1070a et seq.))  
18          and affordability (as measured by average net  
19          price) should be considered in the risk-sharing  
20          system.

21          (G) Specifying a means for the risk-shar-  
22          ing system payments to go primarily towards  
23          students in default, additional aid to low-income  
24          students, or any other form of aid to student

1 borrowers most in need, including after degree  
2 completion.

3 (H) Whether any extraordinary consider-  
4 ation exists that warrants allowing a waiver  
5 process through which a very limited number of  
6 institutions would be eligible to apply for a  
7 waiver from a risk-sharing payment on a yearly  
8 basis, and under what conditions.

9 (3) OUTSIDE RECOMMENDATIONS.—As part of  
10 the study required under paragraph (1), the Com-  
11 mission shall develop a public process for soliciting  
12 recommendations for the risk-sharing system and  
13 shall consider these recommendations as part of the  
14 study. The Commission shall factor in any financial  
15 or other interests of any submitting party in weigh-  
16 ing and considering such recommendations.

17 (4) REPORT.—

18 (A) CONTENT.—Not later than 90 days  
19 after completing the study required under para-  
20 graph (1), the Commission shall issue, by ma-  
21 jority vote, or if unable to achieve a majority  
22 vote, then a plurality vote, a report regarding  
23 its recommendations for a risk-sharing system.  
24 The report shall include the following:

1 (i) A description of the Commission's  
2 findings as to the issues described in para-  
3 graph (2).

4 (ii) A data analysis using the Com-  
5 mission's recommended metrics that dem-  
6 onstrates how each institution of higher  
7 education that participates in the Federal  
8 Direct Loan Program under part D of title  
9 IV of the Higher Education Act of 1965  
10 (20 U.S.C. 1087a et seq.) as of the period  
11 of the Commission's study would fare  
12 under the proposed risk-sharing system,  
13 including projections for the amounts of  
14 payments the lowest performing institu-  
15 tions would have to pay.

16 (iii) An evaluation of the feasibility  
17 and unintended consequences of imple-  
18 menting the recommended risk-sharing  
19 system, including any legislative or regu-  
20 latory action needed to implement such a  
21 system.

22 (B) AVAILABILITY.—The report described  
23 in subparagraph (A) shall be—

24 (i) provided to the Secretary of Edu-  
25 cation, the Committee on Health, Edu-

1 cation, Labor, and Pensions of the Senate,  
2 and the Committee on Education and the  
3 Workforce of the House of Representa-  
4 tives; and

5 (ii) made publicly available.

6 (c) SECURING INFORMATION AND PRIVACY.—

7 (1) IN GENERAL.—Subject to paragraph (2),  
8 the Commission may secure directly from any Fed-  
9 eral department or agency such information as the  
10 Commission considers necessary to carry out its du-  
11 ties under this section. The Commission may request  
12 the head of any State or local department or agency  
13 to furnish such information to the Commission.

14 (2) PRIVACY.—Any Federal department or  
15 agency, State or local department or agency, or in-  
16 stitution of higher education in providing informa-  
17 tion to the Commission under this section shall not  
18 share any personally identifiable information and  
19 shall act in accordance with section 444 of the Gen-  
20 eral Education Provisions Act (20 U.S.C. 1232g,  
21 commonly known as the “Family Educational Rights  
22 and Privacy Act of 1974”).

1 **SEC. 4. CIVIL PENALTIES.**

2 Part G of title IV of the Higher Education Act of  
3 1965 (20 U.S.C. 1088 et seq.) is amended by inserting  
4 after section 489 the following:

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

6 “(a) DEFINITIONS.—In this section:

7 “(1) SUBSTANTIAL MISREPRESENTATION OR  
8 OTHER SERIOUS VIOLATION.—The term ‘substantial  
9 misrepresentation or other serious violation’ means  
10 any of the following:

11 “(A) A substantial misrepresentation re-  
12 garding—

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

15 “(ii) the financial charges of the insti-  
16 tution;

17 “(iii) the space availability in a pro-  
18 gram of the institution for which a student  
19 is considering enrollment;

20 “(iv) the admission requirements of  
21 the institution;

22 “(v) the transferability of credits from  
23 the institution;

24 “(vi) whether a program of the insti-  
25 tution meets the necessary standards to  
26 qualify students to sit for licensing exami-

1           nations, or obtain certification required as  
2           a precondition for employment, in the  
3           State in which the students reside;

4           “(vii) the passage rates of students at  
5           the institution in obtaining certification re-  
6           quirements;

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

9           “(ix) the employability of the grad-  
10          uates of the institution.

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

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

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

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

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

1           “(G) 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           “(2) OFFICER OF AN INSTITUTION OF HIGHER  
5           EDUCATION.—The term ‘officer of an institution of  
6           higher education’ includes the president, chief execu-  
7           tive officer, and chief financial officer of an institu-  
8           tion of higher education or their equivalents.

9           “(b) SANCTIONS FOR SUBSTANTIAL MISREPRESENTEN-  
10          TATIONS OR SERIOUS VIOLATIONS.—

11           “(1) CIVIL PENALTIES.—

12           “(A) IN GENERAL.—The Secretary may  
13           impose a civil penalty upon an eligible institu-  
14           tion upon making a determination, after reason-  
15           able notice and opportunity for a hearing, that  
16           an eligible institution has engaged in a substan-  
17           tial misrepresentation or other serious violation.

18           “(B) AMOUNT OF CIVIL PENALTIES.—A  
19           civil penalty imposed for a violation under sub-  
20           paragraph (A) shall be not less than \$100,000  
21           or—

22           “(i) in the case of a first violation, an  
23           amount equal to the product of \$1,000,000  
24           multiplied by the institution’s student de-  
25           fault risk, whichever is larger;

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

6           “(iii) in the case of a third or subse-  
7           quent violation, an amount equal to the  
8           product of \$3,000,000 multiplied by the in-  
9           stitution’s student default risk, whichever  
10          is larger.

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

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

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

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

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

24           “(2) Assessing a civil penalty against an officer  
25 of an institution of higher education who has know-

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

14 “(e) LIMITATION, SUSPENSION, OR TERMINATION OF  
15 ELIGIBILITY STATUS.—

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

1 title of an eligible institution, subject to the require-  
2 ments of paragraph (2).

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

9 “(f) EMERGENCY ACTION.—

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

19 “(A) receives information, determined by  
20 the Secretary to be reliable, that the institution  
21 is violating any provision of this title, any regu-  
22 lation prescribed under this title, or any appli-  
23 cable special arrangement, agreement, or limita-  
24 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          “(g) 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 “(h) SINGLE COURSE OF CONDUCT; COMPROMISE  
4 AUTHORITY.—

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 by the  
11 Secretary. In determining the amount of such pen-  
12 alty, or the amount agreed upon in compromise, the  
13 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 “(i) 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 “(j) 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 subparagraph (A) shall  
4           remain 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          “(k) 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 or full or partial  
 14           loan forgiveness; 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 sub-  
8           section 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 Students Before Profits 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 for fiscal year  
12          2015 and each of the 5 succeeding fiscal years.

13          “(l) STATE ENFORCEMENT.—

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

25          “(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          is not practicable, the State attorney general  
15          shall provide a copy of the complete complaint  
16          and the notice to the Secretary immediately  
17          upon instituting the action or proceeding.

18           “(C) CONTENTS OF NOTICE.—The notifi-  
19          cation required under this paragraph shall, at a  
20          minimum, describe—

21                   “(i) the identity of the parties;

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

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

1           ceeding so as not to interfere with any ac-  
 2           tion, including any rulemaking, undertaken  
 3           by the Secretary or another Federal agen-  
 4           cy.

5           “(3) REGULATIONS.—The Secretary shall pre-  
 6           scribe regulations to implement the requirements of  
 7           this subsection and periodically provide guidance in  
 8           order to further coordinate actions with the State at-  
 9           torneys general.

10          “(4) PRESERVATION OF STATE AUTHORITY.—

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

18           “(B) RELIEF.—

19           “(i) IN GENERAL.—Relief under this  
 20           subsection may include, without limita-  
 21           tion—

22                   “(I) rescission or reformation of  
 23                   contracts;

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

1 “(III) restitution;

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

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

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

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

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

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