

113TH CONGRESS
2D SESSION

S. 2204

To establish the Proprietary Education Oversight Coordination Committee.

IN THE SENATE OF THE UNITED STATES

APRIL 3, 2014

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

A BILL

To establish the Proprietary Education Oversight
Coordination Committee.

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 “Proprietary Education
5 Oversight Coordination Improvement Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **EXECUTIVE OFFICER.**—The term “executive
9 officer”, with respect to a proprietary institution of

1 higher education that is a publicly traded corpora-
2 tion, means—

3 (A) the president of such corporation;

4 (B) a vice president of such corporation
5 who is in charge of a principal business unit, di-
6 vision, or function of such corporation, such as
7 sales, administration, or finance; or

8 (C) any other officer or person who per-
9 forms a policy-making function for such cor-
10 poration.

11 (2) FEDERAL EDUCATION ASSISTANCE.—The
12 term “Federal education assistance” means any
13 Federal financial assistance provided under any Fed-
14 eral law through a grant, a contract, a subsidy, a
15 loan, a guarantee, an insurance, or any other means
16 to a proprietary institution of higher education, in-
17 cluding Federal financial assistance that is disbursed
18 or delivered to such institution, on behalf of a stu-
19 dent, or to a student to be used to attend such insti-
20 tution, except that such term shall not include any
21 monthly housing stipend provided under chapter 33
22 of title 38, United States Code.

23 (3) PRIVATE EDUCATION LOAN.—The term
24 “private education loan”—

1 (A) means a loan provided by a private
2 educational lender (as defined in section 140(a)
3 of the Truth in Lending Act (15 U.S.C.
4 1650(a))) that—

5 (i) is not made, insured, or guaran-
6 teed under title IV of the Higher Edu-
7 cation Act of 1965 (20 U.S.C. 1070 et
8 seq.);

9 (ii) is issued expressly for postsec-
10 ondary educational expenses to a borrower,
11 regardless of whether the loan is provided
12 through the educational institution that
13 the subject student attends or directly to
14 the borrower from the private educational
15 lender (as so defined); and

16 (iii) is not made, insured, or guaran-
17 teed under title VII or title VIII of the
18 Public Health Service Act (42 U.S.C. 292
19 et seq. and 296 et seq.); and

20 (B) does not include an extension of credit
21 under an open-end consumer credit plan, a re-
22 verse mortgage transaction, a residential mort-
23 gage transaction, or any other loan that is se-
24 cured by real property or a dwelling.

1 (4) PROPRIETARY INSTITUTION OF HIGHER
2 EDUCATION.—The term “proprietary institution of
3 higher education” has the meaning given the term in
4 section 102(b) of the Higher Education Act of 1965
5 (20 U.S.C. 1002(b)).

6 (5) RECRUITING AND MARKETING ACTIVI-
7 TIES.—

8 (A) IN GENERAL.—Except as provided in
9 subparagraph (B), the term “recruiting and
10 marketing activities” means activities that con-
11 sist of the following:

12 (i) Advertising and promotion activi-
13 ties, including paid announcements in
14 newspapers, magazines, radio, television,
15 billboards, electronic media, naming rights,
16 or any other public medium of communica-
17 tion, including paying for displays or pro-
18 motions at job fairs, military installations,
19 or college recruiting events.

20 (ii) Efforts to identify and attract
21 prospective students, either directly or
22 through a contractor or other third party,
23 including contact concerning a prospective
24 student’s potential enrollment or applica-
25 tion for a grant, a loan, or work assistance

1 under title IV of the Higher Education Act
2 of 1965 (20 U.S.C. 1070 et seq.) or par-
3 ticipation in preadmission or advising ac-
4 tivities, including—

5 (I) paying employees responsible
6 for overseeing enrollment and for con-
7 tacting potential students in-person,
8 by phone, by email, or by other inter-
9 net communications regarding enroll-
10 ment; and

11 (II) soliciting an individual to
12 provide contact information to an in-
13 stitution of higher education, includ-
14 ing through websites established for
15 such purpose and funds paid to third
16 parties for such purpose.

17 (iii) Such other activities as the Sec-
18 retary of Education may prescribe, includ-
19 ing paying for promotion or sponsorship of
20 education or military-related associations.

21 (B) EXCEPTIONS.—Any activity that is re-
22 quired as a condition of receipt of funds by an
23 institution under title IV of the Higher Edu-
24 cation Act of 1965 (20 U.S.C. 1070 et seq.), is
25 specifically authorized under such title, or is

1 otherwise specified by the Secretary of Edu-
2 cation, shall not be considered to be a recruit-
3 ing and marketing activity under subparagraph
4 (A).

5 (6) STATE APPROVAL AGENCY.—The term
6 “State approval agency” means any State agency
7 that determines whether an institution of higher
8 education is legally authorized within such State to
9 provide a program of education beyond secondary
10 education.

11 (7) VETERANS SERVICE ORGANIZATION.—The
12 term “veterans service organization” means an orga-
13 nization recognized by the Secretary of Veterans Af-
14 fairs for the representation of veterans under section
15 5902 of title 38, United States Code.

16 **SEC. 3. ESTABLISHMENT OF COMMITTEE.**

17 (a) ESTABLISHMENT.—There is established a com-
18 mittee to be known as the “Proprietary Education Over-
19 sight Coordination Committee” (referred to in this Act as
20 the “Committee”) and to be composed of the head (or the
21 designee of such head) of each of the following Federal
22 entities:

23 (1) The Department of Education.

24 (2) The Consumer Financial Protection Bu-
25 reau.

1 (3) The Department of Justice.

2 (4) The Securities and Exchange Commission.

3 (5) The Department of Defense.

4 (6) The Department of Veterans Affairs.

5 (7) The Federal Trade Commission.

6 (8) The Department of Labor.

7 (9) The Internal Revenue Service.

8 (10) At the discretion of the President, any
9 other relevant Federal agency or department.

10 (b) PURPOSES.—The Committee shall have the fol-
11 lowing purposes:

12 (1) Coordinate Federal oversight of proprietary
13 institutions of higher education to—

14 (A) improve enforcement of applicable
15 Federal laws and regulations;

16 (B) increase accountability of proprietary
17 institutions of higher education to students and
18 taxpayers; and

19 (C) ensure the promotion of quality edu-
20 cation programs.

21 (2) Coordinate Federal activities to protect stu-
22 dents from unfair, deceptive, abusive, unethical,
23 fraudulent, or predatory practices, policies, or proce-
24 dures of proprietary institutions of higher education.

1 (3) Encourage information sharing among
2 agencies related to Federal investigations, audits, or
3 inquiries of proprietary institutions of higher edu-
4 cation.

5 (4) Increase coordination and cooperation be-
6 tween Federal and State agencies, including State
7 Attorneys General and State approval agencies, with
8 respect to improving oversight and accountability of
9 proprietary institutions of higher education.

10 (5) Develop best practices and consistency
11 among Federal and State agencies in the dissemina-
12 tion of consumer information regarding proprietary
13 institutions of higher education to ensure that stu-
14 dents, parents, and other stakeholders have easy ac-
15 cess to such information.

16 (c) MEMBERSHIP.—

17 (1) DESIGNEES.—For any designee described in
18 subsection (a), the head of the member entity shall
19 appoint a high-level official who exercises significant
20 decisionmaking authority for the oversight or inves-
21 tigatory activities and responsibilities related to pro-
22 prietary institutions of higher education of the re-
23 spective Federal entity of such head.

1 (2) CHAIRPERSON.—The Secretary of Edu-
 2 cation or the designee of such Secretary shall serve
 3 as the Chairperson of the Committee.

4 (3) COMMITTEE SUPPORT.—The head of each
 5 entity described in subsection (a) shall ensure appro-
 6 priate staff and officials of such entity are available
 7 to support the Committee-related work of such enti-
 8 ty.

9 **SEC. 4. MEETINGS.**

10 (a) COMMITTEE MEETINGS.—The members of the
 11 Committee shall meet regularly, but not less than once
 12 during each quarter of each fiscal year, to carry out the
 13 purposes described in section 3(b).

14 (b) MEETINGS WITH STATE AGENCIES AND STAKE-
 15 HOLDERS.—The Committee shall meet not less than once
 16 each fiscal year, and shall otherwise interact regularly,
 17 with State Attorneys General, State approval agencies,
 18 veterans service organizations, and consumer advocates to
 19 carry out the purposes described in section 3(b).

20 **SEC. 5. REPORT.**

21 (a) IN GENERAL.—The Committee shall submit a re-
 22 port each year to the Committee on Health, Education,
 23 Labor, and Pensions of the Senate, the Committee on
 24 Education and the Workforce of the House of Representa-

1 tives, and any other committee of Congress that the Com-
2 mittee determines appropriate.

3 (b) PUBLIC ACCESS.—The report described in sub-
4 section (a) shall be made available to the public in a man-
5 ner that is easily accessible to parents, students, and other
6 stakeholders in accordance with the best practices devel-
7 oped under section 3(b)(5).

8 (c) CONTENTS.—

9 (1) IN GENERAL.—The report shall include—

10 (A) an accounting of any action (as de-
11 fined in paragraph (3)) taken by the Federal
12 Government, any member entity of the Com-
13 mittee, or a State—

14 (i) to enforce Federal or State laws
15 and regulations applicable to proprietary
16 institutions of higher education;

17 (ii) to hold proprietary institutions of
18 higher education accountable to students
19 and taxpayers; and

20 (iii) to promote quality education pro-
21 grams;

22 (B) a summary of complaints against each
23 proprietary institution of higher education re-
24 ceived by any member entity of the Committee;

1 (C) the data described in paragraph (2)
2 and any other data relevant to proprietary insti-
3 tutions of higher education that the Committee
4 determines appropriate; and

5 (D) recommendations of the Committee for
6 such legislative and administrative actions as
7 the Committee determines are necessary to—

8 (i) improve enforcement of applicable
9 Federal laws;

10 (ii) increase accountability of propri-
11 etary institutions of higher education to
12 students and taxpayers; and

13 (iii) ensure the promotion of quality
14 education programs.

15 (2) DATA.—

16 (A) INDUSTRY-WIDE DATA.—The report
17 shall include data on all proprietary institutions
18 of higher education that consists of information
19 regarding—

20 (i) the total amount of Federal edu-
21 cation assistance that proprietary institu-
22 tions of higher education received for the
23 previous academic year, and the percentage
24 of the total amount of Federal education
25 assistance provided to institutions of high-

1 er education (as defined in section 102 of
2 the Higher Education Act of 1965 (20
3 U.S.C. 1002)) for such previous academic
4 year that reflects such total amount of
5 Federal education assistance provided to
6 proprietary institutions of higher education
7 for such previous academic year;

8 (ii) the total amount of Federal edu-
9 cation assistance that proprietary institu-
10 tions of higher education received for the
11 previous academic year, disaggregated
12 by—

13 (I) educational assistance in the
14 form of a loan provided under title IV
15 of the Higher Education Act of 1965
16 (20 U.S.C. 1070 et seq.);

17 (II) educational assistance in the
18 form of a grant provided under title
19 IV of the Higher Education Act of
20 1965 (20 U.S.C. 1070 et seq.);

21 (III) educational assistance pro-
22 vided under chapter 33 of title 38,
23 United States Code;

1 (IV) tuition assistance provided
2 under section 2007 of title 10, United
3 States Code;

4 (V) assistance provided under
5 section 1784a of title 10, United
6 States Code; and

7 (VI) Federal education assistance
8 not described in subclauses (I)
9 through (V);

10 (iii) the percentage of the total
11 amount of Federal education assistance
12 provided to institutions of higher education
13 (as defined in section 102 of the Higher
14 Education Act of 1965 (20 U.S.C. 1002))
15 for such previous academic year for each of
16 the programs described in subclauses (I)
17 through (V) of clause (ii) that reflects such
18 total amount of Federal education assist-
19 ance provided to proprietary institutions of
20 higher education for such previous aca-
21 demic year for each of such programs;

22 (iv) the average retention and gradua-
23 tion rates for students pursuing a degree
24 at proprietary institutions of higher edu-
25 cation;

1 (v) the average cohort default rate (as
2 defined in section 435(m) of the Higher
3 Education Act of 1965 (20 U.S.C.
4 1085(m)) for proprietary institutions of
5 higher education, and an annual list of co-
6 hort default rates (as defined in such sec-
7 tion) for all proprietary institutions of
8 higher education;

9 (vi) for careers requiring the passage
10 of a licensing examination—

11 (I) the passage rate of individ-
12 uals who attended a proprietary insti-
13 tution of higher education taking such
14 examination to pursue such a career;
15 and

16 (II) the passage rate of all indi-
17 viduals taking such exam to pursue
18 such a career; and

19 (vii) the use of private education loans
20 at proprietary institutions of higher edu-
21 cation that includes—

22 (I) an estimate of the total num-
23 ber of such loans; and

1 (II) information on the average
2 debt, default rate, and interest rate of
3 such loans.

4 (B) DATA ON PUBLICLY TRADED COR-
5 PORATIONS.—

6 (i) IN GENERAL.—The report shall in-
7 clude data on proprietary institutions of
8 higher education that are publicly traded
9 corporations, consisting of information
10 on—

11 (I) any pre-tax profit of such
12 proprietary institutions of higher edu-
13 cation—

14 (aa) reported as a total
15 amount and an average percent
16 of revenue for all such propri-
17 etary institutions of higher edu-
18 cation; and

19 (bb) reported for each such
20 proprietary institution of higher
21 education;

22 (II) revenue for such proprietary
23 institutions of higher education spent
24 on recruiting and marketing activities,

1 student instruction, and student sup-
2 port services, reported—

3 (aa) as a total amount and
4 an average percent of revenue for
5 all such proprietary institutions
6 of higher education; and

7 (bb) for each such propri-
8 etary institution of higher edu-
9 cation;

10 (III) total compensation packages
11 of the executive officers of each such
12 proprietary institution of higher edu-
13 cation;

14 (IV) a list of institutional loan
15 programs offered by each such propri-
16 etary institution of higher education
17 that includes information on the de-
18 fault and interest rates of such pro-
19 grams; and

20 (V) the data described in clauses
21 (ii) and (iii).

22 (ii) DISAGGREGATED BY OWNER-
23 SHIP.—The report shall include data on
24 proprietary institutions of higher education
25 that are publicly traded corporations,

1 disaggregated by corporate or parent enti-
2 ty, brand name, and campus, consisting
3 of—

4 (I) the total cost of attendance
5 for each program at each such propri-
6 etary institution of higher education,
7 and information comparing such total
8 cost for each such program to—

9 (aa) the total cost of attend-
10 ance for each program at each
11 public institution of higher edu-
12 cation; and

13 (bb) the average total cost
14 of attendance for each program
15 at all institutions of higher edu-
16 cation, including such institutions
17 that are public and such institu-
18 tions that are private;

19 (II) total enrollment, disaggre-
20 gated by—

21 (aa) individuals enrolled in
22 programs taken online; and

23 (bb) individuals enrolled in
24 programs that are not taken on-
25 line;

1 (III) the average retention and
2 graduation rates for students pur-
3 suing a degree at such proprietary in-
4 stitutions of higher education;

5 (IV) the percentage of students
6 enrolled in such proprietary institu-
7 tions of higher education who com-
8 plete a program of such an institution
9 within—

10 (aa) the standard period of
11 completion for such program; and

12 (bb) a period that is 150
13 percent of such standard period
14 of completion;

15 (V) the total cost of attendance
16 for each program at such proprietary
17 institutions of higher education;

18 (VI) the average cohort default
19 rate, as defined in section 435(m) of
20 the Higher Education Act of 1965 (20
21 U.S.C. 1085(m)), for such proprietary
22 institutions of higher education, and
23 an annual list of cohort default rates
24 (as defined in such section) for all

1 proprietary institutions of higher edu-
2 cation;

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 pas-
18 sage of a licensing examination, the
19 rate of individuals who attended such
20 a proprietary institution of higher
21 education and passed such an exam-
22 ination; 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, the report shall provide
7 information on the data described in
8 clause (ii) for individuals using, to pay
9 for the costs of attending such a pro-
10 prietary institution of higher edu-
11 cation, Federal education assistance
12 provided under—

13 (aa) chapter 33 of title 38,
14 United States Code;

15 (bb) section 2007 of title 10,
16 United States Code; and

17 (cc) section 1784a of title
18 10, United States Code.

19 (II) REVENUE.—The report shall
20 provide information on the revenue of
21 proprietary institutions of higher edu-
22 cation that are publicly traded cor-
23 porations that is derived from the
24 Federal education assistance described
25 in subclause (I).

1 (C) COMPARISON DATA.—To the extent
 2 practicable, the report shall provide information
 3 comparing the data described in subparagraph
 4 (B) for proprietary institutions of higher edu-
 5 cation that are publicly traded corporations
 6 with such data for public institutions of higher
 7 education disaggregated by State.

8 (3) ACCOUNTING OF ANY ACTION.—For the
 9 purposes of paragraph (1)(A), the term “any action”
 10 shall include—

11 (A) a complaint filed by a Federal or State
 12 agency in a local, State, Federal, or tribal
 13 court;

14 (B) an administrative proceeding by a
 15 Federal or State agency involving noncompli-
 16 ance of any applicable law or regulation; or

17 (C) any other review, audit, or administra-
 18 tive process by any Federal or State agency
 19 that results in a penalty, suspension, or termi-
 20 nation from any Federal or State program.

21 **SEC. 6. FOR-PROFIT COLLEGE WARNING LIST FOR PAR-**
 22 **ENTS AND STUDENTS.**

23 (a) IN GENERAL.—Each academic year, the Com-
 24 mittee shall publish a list to be known as the “For-Profit
 25 College Warning List for Parents and Students” to be

1 comprised of proprietary institutions of higher edu-
2 cation—

3 (1) that have engaged in illegal activity during
4 the previous academic year as determined by a Fed-
5 eral or State court;

6 (2) that have entered into a settlement result-
7 ing in a monetary payment;

8 (3) that have had any higher education pro-
9 gram withdrawn or suspended; or

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

16 (b) DETERMINATIONS.—In making a determination
17 pursuant to subsection (a)(4), the Committee may con-
18 sider evidence that includes the following:

19 (1) Any consumer complaint collected by any
20 member entity of the Committee.

21 (2) Any complaint filed by a Federal or State
22 agency in a Federal, State, local, or tribal court.

23 (3) Any administrative proceeding by a Federal
24 or State agency involving noncompliance of any ap-
25 plicable law or regulation.

1 (4) Any other review, audit, or administrative
2 process by any Federal or State agency that results
3 in a penalty, suspension, or termination from any
4 Federal or State program.

5 (5) Data or information submitted by a propri-
6 etary institution of higher education to any accred-
7 iting agency or association recognized by the Sec-
8 retary of Education pursuant to section 496 of the
9 Higher Education Act of 1965 (20 U.S.C. 1099b) or
10 the findings or adverse actions of any such accred-
11 iting agency or association.

12 (6) Information submitted by a proprietary in-
13 stitution of higher education to any member entity
14 of the Committee.

15 (7) Any other evidence that the Committee de-
16 termines relevant in making a determination pursu-
17 ant to subsection (a)(4).

18 (c) PUBLICATION.—Not later than July 1 of each fis-
19 cal year, the Committee shall publish the list described in
20 subsection (a) prominently and in a manner that is easily
21 accessible to parents, students, and other stakeholders in
22 accordance with any best practices developed under sec-
23 tion 3(b)(5).

○