

114TH CONGRESS
1ST SESSION

S. 396

To establish the Proprietary Education Oversight Coordination Committee.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 5, 2015

Mr. DURBIN 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
10 higher education that is a publicly traded corpora-
11 tion, means—

1 (A) the president of such corporation;

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

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

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

21 (3) PRIVATE EDUCATION LOAN.—The term
22 “private education loan”—

23 (A) means a loan provided by a private
24 educational lender (as defined in section 140(a)

1 of the Truth in Lending Act (15 U.S.C.
2 1650(a)) that—

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

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

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

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

23 (4) PROPRIETARY INSTITUTION OF HIGHER
24 EDUCATION.—The term “proprietary institution of
25 higher education” has the meaning given the term in

1 section 102(b) of the Higher Education Act of 1965
2 (20 U.S.C. 1002(b)).

3 (5) RECRUITING AND MARKETING ACTIVI-
4 TIES.—

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

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

17 (ii) Efforts to identify and attract
18 prospective students, either directly or
19 through a contractor or other third party,
20 including contact concerning a prospective
21 student’s potential enrollment or applica-
22 tion for a grant, a loan, or work assistance
23 under title IV of the Higher Education Act
24 of 1965 (20 U.S.C. 1070 et seq.) or par-

1 participation in preadmission or advising ac-
2 tivities, including—

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

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

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

19 (B) EXCEPTIONS.—Any activity that is re-
20 quired as a condition of receipt of funds by an
21 institution under title IV of the Higher Edu-
22 cation Act of 1965 (20 U.S.C. 1070 et seq.), is
23 specifically authorized under such title, or is
24 otherwise specified by the Secretary of Edu-
25 cation, shall not be considered to be a recruit-

1 ing and marketing activity under subparagraph
2 (A).

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

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

14 **SEC. 3. ESTABLISHMENT OF COMMITTEE.**

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

21 (1) The Department of Education.

22 (2) The Consumer Financial Protection Bu-
23 reau.

24 (3) The Department of Justice.

25 (4) The Securities and Exchange Commission.

1 (5) The Department of Defense.

2 (6) The Department of Veterans Affairs.

3 (7) The Federal Trade Commission.

4 (8) The Department of Labor.

5 (9) The Internal Revenue Service.

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

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

10 (1) Coordinate Federal oversight of proprietary
11 institutions of higher education to—

12 (A) improve enforcement of applicable
13 Federal laws and regulations;

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

17 (C) ensure the promotion of quality edu-
18 cation programs.

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

23 (3) Encourage information sharing among
24 agencies related to Federal investigations, audits, or

1 inquiries of proprietary institutions of higher edu-
2 cation.

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

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

14 (c) MEMBERSHIP.—

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

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

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

6 **SEC. 4. MEETINGS.**

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

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

17 **SEC. 5. REPORT.**

18 (a) IN GENERAL.—The Committee shall submit a re-
19 port each year to the Committee on Health, Education,
20 Labor, and Pensions of the Senate, the Committee on
21 Education and the Workforce of the House of Representa-
22 tives, and any other committee of Congress that the Com-
23 mittee determines appropriate.

24 (b) PUBLIC ACCESS.—The report described in sub-
25 section (a) shall be made available to the public in a man-

1 ner that is easily accessible to parents, students, and other
2 stakeholders, in accordance with the best practices devel-
3 oped under section 3(b)(5).

4 (c) CONTENTS.—

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

6 (A) an accounting of any action (as de-
7 fined in paragraph (3)) taken by the Federal
8 Government, any member entity of the Com-
9 mittee, or a State—

10 (i) to enforce Federal or State laws
11 and regulations applicable to proprietary
12 institutions of higher education;

13 (ii) to hold proprietary institutions of
14 higher education accountable to students
15 and taxpayers; and

16 (iii) to promote quality education pro-
17 grams;

18 (B) a summary of complaints against each
19 proprietary institution of higher education re-
20 ceived by any member entity of the Committee;

21 (C) the data described in paragraph (2)
22 and any other data relevant to proprietary insti-
23 tutions of higher education that the Committee
24 determines appropriate; and

1 (D) recommendations of the Committee for
2 such legislative and administrative actions as
3 the Committee determines are necessary to—

4 (i) improve enforcement of applicable
5 Federal laws;

6 (ii) increase accountability of propri-
7 etary institutions of higher education to
8 students and taxpayers; and

9 (iii) ensure the promotion of quality
10 education programs.

11 (2) DATA.—

12 (A) INDUSTRY-WIDE DATA.—The report
13 shall include data on all proprietary institutions
14 of higher education that consists of information
15 regarding—

16 (i) the total amount of Federal edu-
17 cation assistance that proprietary institu-
18 tions of higher education received for the
19 previous academic year, and the percentage
20 of the total amount of Federal education
21 assistance provided to institutions of high-
22 er education (as defined in section 102 of
23 the Higher Education Act of 1965 (20
24 U.S.C. 1002)) for such previous academic
25 year that reflects such total amount of

1 Federal education assistance provided to
2 proprietary institutions of higher education
3 for such previous academic year;

4 (ii) the total amount of Federal edu-
5 cation assistance that proprietary institu-
6 tions of higher education received for the
7 previous academic year, disaggregated
8 by—

9 (I) educational assistance in the
10 form of a loan provided under title IV
11 of the Higher Education Act of 1965
12 (20 U.S.C. 1070 et seq.);

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

17 (III) educational assistance pro-
18 vided under chapter 33 of title 38,
19 United States Code;

20 (IV) assistance for tuition and
21 expenses under section 2007 of title
22 10, United States Code;

23 (V) assistance provided under
24 section 1784a of title 10, United
25 States Code; and

1 (VI) Federal education assistance
2 not described in subclauses (I)
3 through (V);

4 (iii) the percentage of the total
5 amount of Federal education assistance
6 provided to institutions of higher education
7 (as defined in section 102 of the Higher
8 Education Act of 1965 (20 U.S.C. 1002))
9 for such previous academic year for each of
10 the programs described in subclauses (I)
11 through (VI) of clause (ii) that reflects
12 such total amount of Federal education as-
13 sistance provided to proprietary institu-
14 tions of higher education for such previous
15 academic year for each of such programs;

16 (iv) the average retention and gradua-
17 tion rates for students pursuing a degree
18 at proprietary institutions of higher edu-
19 cation;

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

1 proprietary institutions of higher edu-
2 cation;

3 (vi) for careers requiring the passage
4 of a licensing examination—

5 (I) the passage rate of individ-
6 uals who attended a proprietary insti-
7 tution of higher education taking such
8 examination to pursue such a career;
9 and

10 (II) the passage rate of all indi-
11 viduals taking such exam to pursue
12 such a career; and

13 (vii) the use of private education loans
14 at proprietary institutions of higher edu-
15 cation that includes—

16 (I) an estimate of the total num-
17 ber of such loans; and

18 (II) information on the average
19 debt, default rate, and interest rate of
20 such loans.

21 (B) DATA ON PUBLICLY TRADED COR-
22 PORATIONS.—

23 (i) IN GENERAL.—The report shall in-
24 clude data on proprietary institutions of
25 higher education that are publicly traded

1 corporations, consisting of information
2 on—

3 (I) any pre-tax profit of such
4 proprietary institutions of higher edu-
5 cation—

6 (aa) reported as a total
7 amount and an average percent
8 of revenue for all such propri-
9 etary institutions of higher edu-
10 cation; and

11 (bb) reported for each such
12 proprietary institution of higher
13 education;

14 (II) revenue for such proprietary
15 institutions of higher education spent
16 on recruiting and marketing activities,
17 student instruction, and student sup-
18 port services, reported—

19 (aa) as a total amount and
20 an average percent of revenue for
21 all such proprietary institutions
22 of higher education; and

23 (bb) for each such propri-
24 etary institution of higher edu-
25 cation;

1 (III) total compensation packages
2 of the executive officers of each such
3 proprietary institution of higher edu-
4 cation;

5 (IV) a list of institutional loan
6 programs offered by each such propri-
7 etary institution of higher education
8 that includes information on the de-
9 fault and interest rates of such pro-
10 grams; and

11 (V) the data described in clauses
12 (ii) and (iii).

13 (ii) DISAGGREGATED BY OWNER-
14 SHIP.—The report shall include data on
15 proprietary institutions of higher education
16 that are publicly traded corporations,
17 disaggregated by corporate or parent enti-
18 ty, brand name, and campus, consisting
19 of—

20 (I) the total cost of attendance
21 for each program at each such propri-
22 etary institution of higher education,
23 and information comparing such total
24 cost for each such program to—

1 (aa) the total cost of attend-
2 ance for each program at each
3 public institution of higher edu-
4 cation; and

5 (bb) the average total cost
6 of attendance for each program
7 at all institutions of higher edu-
8 cation, including such institutions
9 that are public and such institu-
10 tions that are private;

11 (II) total enrollment,
12 disaggregated by—

13 (aa) individuals enrolled in
14 programs taken online; and

15 (bb) individuals enrolled in
16 programs that are not taken on-
17 line;

18 (III) the average retention and
19 graduation rates for students pur-
20 suing a degree at such proprietary in-
21 stitutions of higher education;

22 (IV) the percentage of students
23 enrolled in such proprietary institu-
24 tions of higher education who com-

1 plete a program of such an institution
2 within—

3 (aa) the standard period of
4 completion for such program; and

5 (bb) a period that is 150
6 percent of such standard period
7 of completion;

8 (V) the total cost of attendance
9 for each program at such proprietary
10 institutions of higher education;

11 (VI) the average cohort default
12 rate, as defined in section 435(m) of
13 the Higher Education Act of 1965 (20
14 U.S.C. 1085(m)), for such proprietary
15 institutions of higher education, and
16 an annual list of cohort default rates
17 (as so defined) for all proprietary in-
18 stitutions of higher education;

19 (VII) the median educational
20 debt incurred by students who com-
21 plete a program at such a proprietary
22 institution of higher education;

23 (VIII) the median educational
24 debt incurred by students who start
25 but do not complete a program at

1 such a proprietary institution of high-
2 er education;

3 (IX) the job placement rate for
4 students who complete a program at
5 such a proprietary institution of high-
6 er education and the type of employ-
7 ment obtained by such students;

8 (X) for careers requiring the pas-
9 sage of a licensing examination, the
10 rate of individuals who attended such
11 a proprietary institution of higher
12 education and passed such an exam-
13 ination; and

14 (XI) the number of complaints
15 from students enrolled in such propri-
16 etary institutions of higher education
17 who have submitted a complaint to
18 any member entity of the Committee.

19 (iii) DEPARTMENT OF DEFENSE AND
20 VETERANS AFFAIRS ASSISTANCE.—

21 (I) IN GENERAL.—To the extent
22 practicable, the report shall provide
23 information on the data described in
24 clause (ii) for individuals using, to pay
25 for the costs of attending such a pro-

1 proprietary institution of higher edu-
2 cation, Federal education assistance
3 provided under—

4 (aa) chapter 33 of title 38,
5 United States Code;

6 (bb) section 2007 of title 10,
7 United States Code; and

8 (cc) section 1784a of title
9 10, United States Code.

10 (II) REVENUE.—The report shall
11 provide information on the revenue of
12 proprietary institutions of higher edu-
13 cation that are publicly traded cor-
14 porations that is derived from the
15 Federal education assistance described
16 in subclause (I).

17 (C) COMPARISON DATA.—To the extent
18 practicable, the report shall provide information
19 comparing the data described in subparagraph
20 (B) for proprietary institutions of higher edu-
21 cation that are publicly traded corporations
22 with such data for public institutions of higher
23 education disaggregated by State.

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

4 (A) a complaint filed by a Federal or State
5 agency in a local, State, Federal, or tribal
6 court;

7 (B) an administrative proceeding by a
8 Federal or State agency involving noncompli-
9 ance of any applicable law or regulation; or

10 (C) any other review, audit, or administra-
11 tive process by any Federal or State agency
12 that results in a penalty, suspension, or termi-
13 nation from any Federal or State program.

14 **SEC. 6. FOR-PROFIT COLLEGE WARNING LIST FOR PAR-**
15 **ENTS AND STUDENTS.**

16 (a) IN GENERAL.—Each academic year, the Com-
17 mittee shall publish a list to be known as the “For-Profit
18 College Warning List for Parents and Students” to be
19 comprised of proprietary institutions of higher edu-
20 cation—

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

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

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

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

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

12 (1) Any consumer complaint collected by any
13 member entity of the Committee.

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

16 (3) Any administrative proceeding by a Federal
17 or State agency involving noncompliance of any ap-
18 plicable law or regulation.

19 (4) Any other review, audit, or administrative
20 process by any Federal or State agency that results
21 in a penalty, suspension, or termination from any
22 Federal or State program.

23 (5) Data or information submitted by a propri-
24 etary institution of higher education to any accred-
25 iting agency or association recognized by the Sec-

1 retary of Education pursuant to section 496 of the
2 Higher Education Act of 1965 (20 U.S.C. 1099b) or
3 the findings or adverse actions of any such accred-
4 iting agency or association.

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

8 (7) Any other evidence that the Committee de-
9 termines relevant in making a determination pursu-
10 ant to subsection (a)(4).

11 (c) PUBLICATION.—Not later than July 1 of each fis-
12 cal year, the Committee shall publish the list under sub-
13 section (a) prominently and in a manner that is easily ac-
14 cessible to parents, students, and other stakeholders, in
15 accordance with any best practices developed under sec-
16 tion 3(b)(5).

○