

***PROTECT Students Act of 2025***  
**Section-by-Section**  
**Senator Dick Durbin (D-IL)**

**Title I. Student and Taxpayer Protections**

**Sec. 101. Gainful Employment and Financial Value Transparency.** Ensures that schools are offering career programs that work for students, and do not leave them worse off than they started (owing more debt than they can repay based on earnings, or earning less than a typical high-school graduate in their state) by codifying the 2023 Biden Administration Gainful Employment regulations. Requires that schools eligible to receive Title IV demonstrate that earnings of graduates in specific career programs (*i.e.*, for-profit programs and non-degree programs) exceed those of high school students in the state, and that the debt-to-earnings ratio of graduates of a program allows graduates to repay the debt they took on to attend. Institutions also must provide warnings to students if their career-training or graduate-school programs fail to meet the standards. These policies are expected to protect more than 700,000 students each year from enrolling in programs that fail to pay off and are projected to save taxpayers nearly \$14 billion over the next decade.

**Sec. 102. Borrower Defense.** Simplifies the process for students who seek to discharge student loans consistent with the November 2022 Biden Administration Borrower Defense regulations, replacing the existing statutory language of section 455(h) of the *Higher Education Act* (20 USC 1087e). The provision establishes a substantive standard for borrower defense in statute; defines “substantial misrepresentation” and “substantial omission of fact;” establishes the Secretary’s authority to discharge loans on the basis of borrower defense; clarifies that borrower defense is available for all federal student loans that may be consolidated into a Direct Loan (including FFEL and Parent PLUS loans); expressly states that a borrower can raise a defense at any time and need not default; and directs the Secretary to consider recovering cost in a separate proceeding against an institution.

**Sec. 103. Closed School Discharge.** Ensures that students who were enrolled in a school within 180 days of the school precipitously closing, or shut down programs in which more than 50 percent of students were enrolled, are able to seek federal student loan discharges. This provision also allows the Education Secretary to extend the 180 day lookback window if there are exceptional circumstances, which may include, but are not limited to, a school being placed on probation by its accrediting agency or state authorizing authority; a school being placed on Heightened Cash Monitoring or a Provisional Program Participation Agreement; the school in the teach-out agreement failing in its contractual obligations; and a school permanently closing its in-person locations while allowing its remote locations to stay open. The Secretary also would consider recovering costs against an institution that closed.

**Sec. 104. Prohibition on Institutions Limiting Student Legal Action.** This provision prohibits institutions of higher education from forcing students to use pre-dispute mandatory arbitration and explicitly allows students to join together in class-action lawsuits regarding enrollment agreements. For-profit colleges have often buried these provisions in the fine print to

prevent students from accessing their day in court to hold their schools accountable. The provision also would create a private right of action for colleges' violations of law.

**Sec. 105. Incentive Compensation.** This provision rescinds guidance issued by the Department of Education in 2011 that established a loophole in the longstanding statutory prohibition on incentive compensation for online providers performing recruitment and marketing services. This provision also disallows future guidance or regulations that would establish similar loopholes. To ensure institutions comply with the prohibition, institutions of higher education are required to attest that they do not provide any form of incentive compensation inconsistent with the statute within one year of the date of enactment.

## **Title II. Ensuring Integrity at Institutions of Higher Education and Institutional Contractors.**

**Sec. 201. Updating Federal Oversight of Third-Party Servicers.** This provision clarifies that the definition of a third-party servicer includes entities that conduct activities related to delivering federal student aid, recruitment or retention of students, default management, and developing and delivering instructional content.

**Sec. 202. Job Placement Rates.** Requires the Secretary of Education to establish a single, uniform definition of a job placement rate to ensure that when institutions or accrediting agencies use such a rate, it is consistent across institutions and minimizes the opportunity for misleading or deceptive practices. Institutions and accrediting agencies would be required to utilize the methodology from the established definition.

**Sec. 203. Minimum Instructional Spending Levels.** Requires institutions of higher education to allocate at least 30 percent of their net tuition revenue to spending on education (*i.e.*, instruction and student services) and establishes definitions to ensure clear delineation of funds spent on marketing, advertising, recruiting, and executive and officer compensation from spending on instruction and student. For institutions with less than 50 percent of their net tuition revenue spent on instruction, the institution must provide warnings to students.

**Sec. 204. Past Performance.** Ensure institutions may not employ owners or leaders of institutions that have engaged in misconduct and/or that owe the federal government money for their past acts.

**Sec. 205. Recoupment.** Ensures that the Department of Education is able to recoup Title IV funds from institutions when they and their owners engage in misconduct, including, fraud, substantial misrepresentation, or violations of the incentive compensation prohibition. Clarifies that the Education Secretary shall assess liabilities incurred, while maintaining the authority to waive a portion or all of the liabilities on a case-by-case basis and requires that both a representative of the institution and of any ownership entity of the institution with control over the school are required to sign the Program Participation Agreement, agreeing to repay any liabilities the school incurs.

## **Title III. Improving Oversight**

**Sec. 301. Enforcement in the Office of Federal Student Aid.** Formally authorizes the establishment and maintenance of an Enforcement Unit in the Office of Federal Student Aid. The Enforcement Unit would assess complaints against institutions and their contractors, as well as student loan servicers; investigate misconduct; and enforce federal rules and requirements against those parties. The Unit would maintain its own staff, and work in coordination with other state and federal agencies. Ensures that the Department has the authority to subpoena testimony to aid in its investigations. Revisions to the current law's program review requirements would enhance risk-based reviews for institutions and expand the scope of reviews to ensure the Department examines a wider array of materials. Finally, this section increases the penalty colleges can face for violations of law or misrepresentations to students to \$100,000 per violation or one percent of the total federal student aid volume the school received in the most recent year. This provision would also ensure that institutions under common ownership share those potential liabilities.

**Sec. 302. For-Profit Education Oversight Coordination Committee.** This section would establish an intra-government For-Profit Education Oversight Coordination Committee, with members representing the Departments of Education, Justice, Defense, Veterans Affairs, and Labor as well as the Consumer Financial Protection Bureau, the Federal Trade Commission, the Internal Revenue Service, and the Securities and Exchange Commission. The Committee would work to protect students from unfair and deceptive practices, coordinate investigations and enforcement work, and develop best practices across state and federal agencies.

**Sec. 303. Establishment and Maintenance of Complaint Resolution and Tracking System.** The Education Secretary would, under this provision, ensure that the Department operates a tracking system that allows members of the public to submit complaints about institutions of higher education or student loan servicers. Institutions and servicers would be required to respond to complaints about their services or practices, and the Department would be empowered to investigate more deeply if the complaint is not adequately resolved. Additionally, information about the number and nature of complaints received would be made public, and the Secretary would submit an annual report to Congress regarding recommendations based on those complaints.

**Sec. 304. Reforms to Eligibility and Certification Procedures.** This section would clarify that institutions must comply with all laws, regulations, and other requirements established pursuant to Title IV of the *Higher Education Act* to be fully certified, and that they are not otherwise entitled to ongoing federal financial aid eligibility. Institutions that are out of compliance with past performance requirements—such as those with owners or operators who previously were found to have engaged in fraud or misconduct—may not participate in the federal student aid programs. The Education Secretary also may not automatically certify any institution's Title IV eligibility because of a delay in reviewing the college's application.

For high-risk institutions, or institutions that have violated the terms of the law or their contracts with the Education Department, the Secretary may allow institutions to access federal financial aid under provisional status. Provisionally certified schools would be required to comply with the added terms and conditions that the Secretary believes are necessary or appropriate.

Institutions that break the law or violate the terms of their contracts with the Secretary may have their eligibility ended.

**Sec. 305. State Oversight.** This section would preserve states' authority and ability to protect their residents by ensuring that institutions offering online education in a state other than the ones in which they are located either meet the requirements of each state where they enroll students, if their footprint in the state is larger; or if participating under a reciprocity agreement, they are part of an agreement that permits states to enforce their higher education laws.

**Sec. 306. Accrediting Agency Oversight.** Under this provision, accrediting agencies would be required to review and assess the risks of contracts between the institutions they accredit and programs those colleges outsource to third-party servicers.

**Sec. 307. Mandatory Spending for Administrative Costs of Operating the Student Aid Programs.** Restores original intent of the Direct Loan Program by providing mandatory funding equal to a percentage of annual loan volume to support the administrative costs of operating the student aid programs.

#### **Title IV. Improving Access to Student and Taxpayer Information**

**Sec. 401. Reporting and Disclosures from Institutions of Higher Education.** Requires institutions to disclose debt-to-earnings rates and the earnings premium measures for all graduate and certificate programs. This provision is consistent with the 2023 Biden Administration Gainful Employment rule and applies to all Title IV institutions and programs except for four-year undergraduate programs at public and nonprofit colleges.

Institutions also would be required to disclose to students when their non-instructional spending levels exceed acceptable rates of growth, or when their overall instructional spending is less than one-third of the institution's tuition revenue, providing families with new insights into how their colleges are prioritizing students' needs. For institutions that contract with third-party servicers, institutions would report to the Department of Education the programs and services for which they are outsourcing those core activities, and would disclose those relationships in advertising and marketing materials and in communications with prospective or enrolled students to ensure students know the nature of the relationship. Those that provide online programs would report their spending on recruitment and their net price for the program.

Finally, proprietary institutions would be required to provide SEC-style warnings to the Department of Education (even if they are not publicly traded) regarding student-related issues like changes in ownership, closures of institutions, lawsuits, and law enforcement investigations.

**Sec. 402. Transparency of Oversight Activities.** Under this provision, the Department of Education would make additional information available to the public about its oversight of institutions—a critical aspect of its responsibility to students and taxpayers. In particular, the Department would publish regular data about borrower defense claims and discharges received from students and approved by the Department. The Secretary also would post information about proprietary institutions' compliance with the 90/10 rule.

With respect to institutions undergoing changes of ownership and/or conversions in the control of the institution, the Department would promptly communicate decisions to approve or disapprove such changes. The Secretary also would post updated information, including audited financial statements, letters of credit or other forms of surety required of colleges, and Heightened Cash Monitoring statuses of schools. The Secretary would be required to post full program participation agreements for institutions.

Accrediting agencies similarly would be required to post timely updates about actions taken with respect to their approved institutions and the reasons for those actions and would submit those updates to the Department for posting. The Secretary would be required to post recognition materials for accrediting agencies, which are responsible for directly overseeing the quality of colleges and universities.