

114TH CONGRESS
2D SESSION

S. 3380

To amend the Higher Education Act of 1965 to provide for accreditation reform, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 22, 2016

Ms. WARREN (for herself, Mr. DURBIN, and Mr. SCHATZ) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Higher Education Act of 1965 to provide for accreditation reform, and for other purposes.

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 “Accreditation Reform
5 and Enhanced Accountability Act of 2016”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to improve the effective-
8 ness of recognized accreditation as an eligibility require-
9 ment for Federal education funding and to increase the

1 accountability of institutions of higher education for stu-
2 dent outcomes.

3 **SEC. 3. RECOGNITION OF ACCREDITING AGENCY OR ASSO-**
4 **CIATION.**

5 Section 496 of the Higher Education Act of 1965 (20
6 U.S.C. 1099b) is amended—

7 (1) in subsection (g)—

8 (A) in the subsection heading, by striking
9 “LIMITATION ON”;

10 (B) by striking “Nothing in this section
11 shall be construed to permit the Secretary to
12 establish any criteria that specifies, defines, or
13 prescribes the standards that accrediting agen-
14 cies or associations shall use to assess any insti-
15 tution’s success with respect to student achieve-
16 ment.”; and

17 (C) by adding at the end the following:
18 “Nothing in this section shall prohibit the Sec-
19 retary from establishing regulations regarding
20 the criteria for accrediting agencies or associa-
21 tions that are required under this section, in-
22 cluding criteria or standards with respect to
23 student achievement, or from establishing dif-
24 ferentiated recognition processes for accrediting
25 agencies or associations. Nothing in this section

1 shall be construed to permit the Secretary to
 2 establish any regulation that limits the aca-
 3 demic freedom of an institution of higher edu-
 4 cation, such as any criterion that specifies, de-
 5 fines, or prescribes curriculum or instruction.”;
 6 and

7 (2) in subsection (o), by striking “Notwith-
 8 standing any other provision of law, the Secretary
 9 shall not promulgate any regulation with respect to
 10 the standards of an accreditation agency or associa-
 11 tion described in subsection (a)(5).”.

12 **SEC. 4. ACCREDITATION STANDARDS.**

13 Section 496(a) of the Higher Education Act of 1965
 14 (20 U.S.C. 1099b(a)) is amended—

15 (1) in the matter preceding paragraph (1), by
 16 striking “of student achievement” and inserting “for
 17 the effectiveness of accrediting agencies or associa-
 18 tions”;

19 (2) in paragraph (4)(A), by striking “the stated
 20 objective for which the courses or the programs are
 21 offered” and inserting “the objectives for which
 22 courses or programs of this type are offered”; and

23 (3) in paragraph (5)—

24 (A) in the matter preceding subparagraph

25 (A), by striking “assess the institution’s” and

1 inserting “meet the criteria established by the
2 Secretary with respect to such standards and
3 assess and make accreditation determinations
4 based on the institution’s”;

5 (B) by striking subparagraph (A) and in-
6 serting the following:

7 “(A) outcomes and success with respect to
8 student achievement in relation to the institu-
9 tion’s mission, according to standards deter-
10 mined by the Secretary, and data provided by
11 the Secretary to accrediting agencies or associa-
12 tions, including retention rate, graduation and
13 course completion rates, cohort default rate, re-
14 payment rate, transfer rate, student earnings
15 after graduation, and job placement rates, pro-
16 fessional and vocational certification and licens-
17 ing examination pass rate, as applicable, and
18 additional measures of student achievement, as
19 determined by the Secretary;”;

20 (C) by striking subparagraph (E) and in-
21 serting the following:

22 “(E) affordability, such as average net
23 price and changes in tuition and fees;”;

24 (D) in subparagraph (I)—

1 (i) by inserting “and any actions
2 taken against the institution by any State
3 or the Federal Government, including on-
4 going investigations, lawsuits that have
5 survived motions to dismiss, settlements,
6 or any judgments against the institution in
7 a State or Federal court” after “the agen-
8 cy or association”; and

9 (ii) by striking “and” after the semi-
10 colon;

11 (E) by striking subparagraph (J) and in-
12 serting the following:

13 “(J) record of compliance with its program
14 responsibilities under this title based on infor-
15 mation the Secretary may provide to the agency
16 or association; and”; and

17 (F) by inserting after subparagraph (J)
18 the following:

19 “(K) enrollment levels of students receiv-
20 ing Federal Pell Grants;”.

21 **SEC. 5. MINIMUM BASELINE THRESHOLD.**

22 Section 496 of the Higher Education Act of 1965 (20
23 U.S.C. 1099b) is amended by adding at the end the fol-
24 lowing:

25 “(r) MINIMUM BASELINE THRESHOLD.—

1 “(1) IN GENERAL.—In order to be recognized
2 by the Secretary as a reliable authority as to the
3 quality of education or training offered by an insti-
4 tution of higher education seeking to participate in
5 the programs authorized under this title, an accred-
6 iting agency or association shall require that each
7 institution of higher education subject to its jurisdic-
8 tion meet or exceed the baseline thresholds estab-
9 lished by the Secretary pursuant to paragraph (3)
10 for the student achievement measures described in
11 paragraph (2) not less than 2 out of 3 consecutive
12 years, in order to remain accredited by the agency
13 or association.

14 “(2) STUDENT ACHIEVEMENT MEASURES.—The
15 student achievement measures required under this
16 subsection shall be each of the following:

17 “(A) The graduation rate, as defined by
18 the Secretary through regulations, of the insti-
19 tution of higher education, for the most recent
20 year or years for which data are available, for
21 all students attending the institution.

22 “(B) The 3-year cohort default rate, cal-
23 culated for the most recent year for which data
24 are available, for all individuals who entered re-
25 payment on any Federal Direct Loan received

1 for attendance at the institution during the ap-
2 plicable year (as determined in accordance with
3 section 435(m)).

4 “(C) The 5-year cohort repayment rate, as
5 defined by the Secretary through regulations,
6 calculated for the most recent year for which
7 data are available, for all individuals who en-
8 tered repayment on any Federal Direct Loan
9 received for attendance at the institution during
10 the applicable year.

11 “(D) Any other measure, as determined by
12 the Secretary through regulation, in consulta-
13 tion with the Commissioner of the National
14 Center for Education Statistics.

15 “(3) BASELINE THRESHOLDS.—The Secretary
16 shall, through regulations, establish a baseline
17 threshold for each of the student achievement meas-
18 ures described in paragraph (2) in relation to the in-
19 stitution’s mission.

20 “(4) STUDENT ACHIEVEMENT DATA.—The Sec-
21 retary shall annually provide the necessary student
22 achievement data to accrediting agencies or associa-
23 tions to carry out this subsection.

24 “(5) RULE OF CONSTRUCTION.—Nothing in
25 this subsection shall be construed as prohibiting an

1 accrediting agency or association from assessing in-
2 stitutions of higher education using a holistic review
3 of student achievement, which may include measures
4 and thresholds beyond what is required by this sub-
5 section, or in subsection (a)(5)(A), for the purposes
6 of continuous institutional improvement.”.

7 **SEC. 6. ACCREDITATION REVIEWS.**

8 Section 496 of the Higher Education Act of 1965 (20
9 U.S.C. 1099b), as amended by section 5, is further
10 amended by adding at the end the following:

11 “(s) ACCREDITATION REVIEWS.—

12 “(1) STANDARD REVIEWS.—In order to be rec-
13 ognized by the Secretary as a reliable authority as
14 to the quality of education or training offered by an
15 institution of higher education seeking to participate
16 in the programs authorized under this title, an ac-
17 crediting agency or association shall—

18 “(A) require that each institution of higher
19 education subject to its jurisdiction undergo a
20 standard accreditation review at regular inter-
21 vals as determined by the agency or association,
22 and before the agency or association first pro-
23 vides accreditation to such institution; and

24 “(B) conduct the standard accreditation
25 review and make accreditation determinations

1 based on the standards described in subsection
2 (a)(5).

3 “(2) ENHANCED ACCREDITATION REVIEWS.—

4 “(A) IN GENERAL.—In order to be recog-
5 nized by the Secretary as a reliable authority as
6 to the quality of education or training offered
7 by an institution of higher education seeking to
8 participate in the programs authorized under
9 this title, an accrediting agency or association
10 shall carry out an enhanced accreditation review
11 of an institution of higher education subject to
12 its jurisdiction—

13 “(i) immediately after the agency or
14 association learns—

15 “(I) that the institution is the
16 subject of an investigation, settlement,
17 or adverse judgment by a Federal au-
18 thority (other than the Department)
19 or a State for a violation relating to
20 fraud or abuse, deceptive practices, or
21 material harm to students enrolled, or
22 previously enrolled, at the institution;
23 or

24 “(II) of any other situation or
25 factor required by the Secretary

1 through regulations promulgated
2 under this section that relate to the
3 student achievement measures de-
4 scribed in subsection (r);

5 “(ii) if the agency or association has
6 reason to believe that the institution is fail-
7 ing to meet its program responsibilities
8 under this title or is engaged in fraud or
9 abuse, deceptive practices, or material
10 harm to students enrolled, or previously
11 enrolled, at the institution; or

12 “(iii) at any other time the agency or
13 association determines necessary, as out-
14 lined in the agency or association’s stand-
15 ards.

16 “(B) CONTENT OF AN ENHANCED ACCRED-
17 ITATION REVIEW.—For each enhanced accredi-
18 tation review required under subparagraph
19 (A)—

20 “(i) the accrediting agency or associa-
21 tion may consider any of the factors that
22 it considers during a standard accredita-
23 tion review;

24 “(ii) the accrediting agency or asso-
25 ciation shall—

1 “(I) investigate the issue that
2 triggered the enhanced accreditation
3 review; and

4 “(II) determine if the accredita-
5 tion of the institution should be with-
6 drawn or suspended, or if any other
7 action should be taken; and

8 “(iii) the institution shall be required
9 to make additional disclosures, as deter-
10 mined by the Secretary through regula-
11 tions promulgated under this section, to
12 the students attending the institution and
13 to the public.

14 “(C) REVIEW REPORTING REQUIRE-
15 MENTS.—An accrediting agency or association
16 that conducts an enhanced accreditation review
17 under this paragraph shall make available to
18 the public on the agency or association’s
19 website and submit to the Secretary, the appro-
20 priate State licensing or authorizing agency,
21 and the appropriate State Attorney General—

22 “(i) when the agency or association
23 initiates the enhanced accreditation review
24 and the reason for conducting the en-
25 hanced accreditation review;

1 “(ii) at the conclusion of the enhanced
 2 accreditation review, the information ob-
 3 tained by the agency or association as part
 4 of the enhanced accreditation review, in-
 5 cluding the institution’s performance on
 6 the student achievement measures, to the
 7 extent required by the Secretary through
 8 regulations promulgated under this section;
 9 and

10 “(iii) at the conclusion of the en-
 11 hanced accreditation review, the outcome
 12 of the enhanced accreditation review and
 13 an explanation of the reasons for any ac-
 14 tions taken as a result of the enhanced ac-
 15 creditation review.”.

16 **SEC. 7. ACCREDITATION AGENCY ACTION.**

17 Section 496 of the Higher Education Act of 1965 (20
 18 U.S.C. 1099b), as amended by sections 5 and 6, is further
 19 amended by adding at the end the following:

20 “(t) ACCREDITATION AGENCY ACTION.—

21 “(1) IN GENERAL.—In order to be recognized
 22 by the Secretary as a reliable authority as to the
 23 quality of education or training offered by an insti-
 24 tution of higher education seeking to participate in
 25 the programs authorized under this title, an accred-

1 iting agency or association shall agree to take action,
2 as described in paragraph (2), with respect to an in-
3 stitution of higher education subject to its jurisdic-
4 tion if any of the following occur:

5 “(A) Change in ownership of the institu-
6 tion.

7 “(B) Rapid change in size of student popu-
8 lation at the institution, as defined by the Sec-
9 retary in regulations promulgated under this
10 section.

11 “(C) Any notification by the Secretary to
12 the agency or association of poor financial
13 health, including—

14 “(i) a lowering in the credit rating
15 provided to the institution by a credit rat-
16 ing agency (as defined in section 3(a) of
17 the Securities Exchange Act of 1934 (15
18 U.S.C. 78e(a)); and

19 “(ii) any other indicator of financial
20 weakness as defined by the Secretary,
21 which may include heightened cash moni-
22 toring or the requirement to post a letter
23 of credit.

24 “(D) Any substantive change to the insti-
25 tution’s programs or locations.

1 “(E) Any other event determined appro-
2 priate by the Secretary through regulations pro-
3 mulgated under this section.

4 “(F) Any other event determined by the
5 accrediting agency or association.

6 “(2) ACTIONS.—The actions that may be taken
7 by an accrediting agency or association under this
8 paragraph are the following:

9 “(A) An enhanced accreditation review.

10 “(B) Formal accrediting action taken by
11 the agency or association, such as a compliance
12 assessment or the imposition of formal condi-
13 tions on accreditation that occurs separate from
14 the standard accreditation reviews.

15 “(C) A formal request for additional infor-
16 mation.

17 “(D) A recommendation that the institu-
18 tion carefully monitor and report to the accred-
19 iting agency or association factors relating to
20 the event described in paragraph (1), or put
21 into place appropriate controls or improvement
22 strategies relating to such event.

23 “(E) Other actions determined appropriate
24 by the accrediting agency or association.”.

1 **SEC. 8. OPERATING PROCEDURES.**

2 (a) NOTIFICATION.—Section 496(a)(7) of the Higher
3 Education Act of 1965 (20 U.S.C. 1099b(a)(7)) is amend-
4 ed—

5 (1) by striking “the Secretary and the appro-
6 priate State licensing or authorizing agency within
7 30 days” and inserting “the Secretary, the appro-
8 priate State licensing or authorizing agency, and the
9 appropriate State Attorney General, within 30
10 days”; and

11 (2) by striking “adverse” and inserting “nega-
12 tive”.

13 (b) AVAILABILITY TO THE PUBLIC.—Section 496(c)
14 of the Higher Education Act of 1965 (20 U.S.C.
15 1099b(c)) is amended—

16 (1) in paragraph (7)—

17 (A) in the matter preceding subparagraph
18 (A), by striking “makes available to the public
19 and the State licensing or authorizing agency,
20 and submits to the Secretary, a summary of
21 agency or association actions” and inserting
22 “makes available to the public on the agency or
23 association’s website and submits to the Sec-
24 retary, the appropriate State licensing or au-
25 thorizing agency, and the appropriate State At-
26 torney General, and other relevant agencies,

1 which may include the Bureau of Consumer Fi-
2 nancial Protection, the Federal Trade Commis-
3 sion, the Department of Defense, and the De-
4 partment of Veterans Affairs, as appropriate, a
5 summary of and justification for the final deci-
6 sion issued to the institution regarding each ac-
7 creditation action”; and

8 (B) in subparagraph (C), by striking “ad-
9 verse action taken with respect to an institution
10 or placement on probation of an institution”
11 and inserting “negative action taken, including
12 an order to show cause, with respect to an insti-
13 tution, or placement on probation of an institu-
14 tion”;

15 (2) in paragraph (8), by striking “and” after
16 the semicolon; and

17 (3) by adding at the end the following:

18 “(10) turns over to the Secretary all accredita-
19 tion documents of an institution that closes; and”.

20 **SEC. 9. CONFLICT OF INTEREST.**

21 Section 496(a) of the Higher Education Act of 1965
22 (20 U.S.C. 1099b(a)) is amended—

23 (1) in paragraph (7), by striking “and” after
24 the semicolon;

1 (2) in paragraph (8), by striking the period at
2 the end and inserting “; and”; and

3 (3) by adding at the end the following:

4 “(9) such agency or association prohibits an in-
5 dividual—

6 “(A) from participating in any review or
7 decision making role in any part of the agency’s
8 or association’s accreditation process, including
9 service on the agency’s or association’s commis-
10 sion or governing board and reviewing or decid-
11 ing on accreditation policies or the accreditation
12 status of institutions or programs, if the indi-
13 vidual, or a family member of the individual (as
14 defined by the Secretary)—

15 “(i) is an administrative officer of an
16 institution of higher education accredited
17 by or seeking accreditation from such
18 agency or association;

19 “(ii) has a financial stake in any insti-
20 tution of higher education (other than as
21 an employee), including as an investor,
22 bondholder, creditor, vendor, or contractor;

23 “(iii) has a fiduciary responsibility to
24 an institution of higher education accred-

1 ited by or seeking accreditation from such
2 agency or association;

3 “(iv) is a federally registered lobbyist;
4 or

5 “(v) is ineligible to participate under
6 regulations prescribed by the Secretary
7 based on affiliation with an institution that
8 has a history of administrative or legal ac-
9 tion brought on behalf of students or tax-
10 payers, or that currently faces such action,
11 or that closed without providing equitable
12 treatment of students; and

13 “(B) from participating in any review or
14 decision making role in any part of the agency’s
15 or association’s accreditation process with re-
16 spect to a particular institution or program, if
17 the individual, or a family member of the indi-
18 vidual (as defined by the Secretary), is an em-
19 ployee or was an employee in the preceding 3
20 years of the institution or program.”.

21 **SEC. 10. ACCREDITATION AGENCY ACCOUNTABILITY.**

22 (a) IN GENERAL.—Section 496 of the Higher Edu-
23 cation Act of 1965 (20 U.S.C. 1099b) is amended—

24 (1) in subsection (l)(1)—

1 (A) in subparagraph (A), by striking “or”
2 after the semicolon;

3 (B) in subparagraph (B)(ii), by striking
4 the period at the end and inserting “; or”; and

5 (C) by adding at the end the following:

6 “(C) impose a fine if the agency or asso-
7 ciation failed to notify the Secretary when the
8 agency or association had reason to believe an
9 institution of higher education was failing to
10 meet its program responsibilities under this title
11 or was engaged in fraud or abuse, deceptive
12 practices, or material harm to students en-
13 rolled, or previously enrolled, at the institution,
14 or failed to take action under subsection (t)(2)
15 for such an institution.”; and

16 (2) in subsection (n)—

17 (A) in paragraph (3)—

18 (i) in the first sentence, by inserting
19 “or any institution that the agency or as-
20 sociation accredits” before the period at
21 the end;

22 (ii) by inserting after the first sen-
23 tence the following: “The Secretary shall
24 conduct a performance-based review and
25 make a holistic judgment regarding wheth-

1 er the accrediting agency or association is
2 a reliable authority on the quality of post-
3 secondary education, including the quality
4 of the agency's or association's processes
5 to accurately assess outcomes and success
6 with respect to student achievement of the
7 institutions the agency or association ac-
8 credits to deliver a quality education con-
9 sistent with the missions of the institu-
10 tions, and the effectiveness, timeliness, and
11 consistency of the accrediting agency or as-
12 sociation in addressing the standards in
13 subsection (a)."; and

14 (iii) by striking "The Secretary shall
15 not, under any circumstances, base deci-
16 sions on the recognition or denial of rec-
17 ognition of accreditation agencies or asso-
18 ciations on criteria other than those con-
19 tained in this section."; and

20 (B) by adding at the end the following:

21 "(5)(A) Not later than 30 days after a finding
22 by a Federal or State agency or court of law that
23 an institution of higher education has violated a
24 Federal or State law related to fraud or abuse, de-
25 ceptive practices, materially harmed students en-

1 rolled, or previously enrolled, at the institution of
2 higher education, breached its fiduciary duty to the
3 Department under this title, been the subject of a
4 settlement or lawsuit that has survived a motion to
5 dismiss by a State or Federal entity related to fraud
6 or abuse or deceptive practices, or filed for bank-
7 ruptcy, the Secretary shall carry out the following:

8 “(i) Initiate a review of the accrediting
9 agency or association that accredited the insti-
10 tution to determine if the accrediting agency or
11 association failed to effectively apply the cri-
12 teria in this section, or is otherwise not in com-
13 pliance with the requirements of this section,
14 and, if the accrediting agency or association is
15 not in compliance, shall initiate action pursuant
16 to subsection (l) to take any or all of the fol-
17 lowing actions:

18 “(I) Limit, suspend, or terminate rec-
19 ognition of the agency or association.

20 “(II) Require the agency or associa-
21 tion to take appropriate action.

22 “(III) Impose a fine for noncompli-
23 ance.

24 “(ii) Make publicly available the initiation
25 of the review and outcome.

1 “(B) The Office of Inspector General of the De-
2 partment shall review, on an annual basis, the Sec-
3 retary’s actions under this subsection, along with
4 findings by the Secretary and provide recommenda-
5 tions on appropriate fines or actions (including with-
6 drawing approval or recognition of the accrediting
7 agency or association) against an accrediting agency
8 or association sanctioned under this section to the
9 Secretary and appropriate Department staff.

10 “(C) The Office of Inspector General of the De-
11 partment shall provide a report that is made avail-
12 able to the public and provide a copy to the National
13 Advisory Committee on Institutional Quality and In-
14 tegrity, the Committee on Health, Education, Labor,
15 and Pensions of the Senate, and the Committee on
16 Education and the Workforce of the House of Rep-
17 resentatives on the review under subparagraph (B).

18 “(D) Any monetary penalty or payment as-
19 sessed by an accrediting agency or association on in-
20 stitutions of higher education subject to the jurisdic-
21 tion of the agency or association as a result of a fine
22 imposed under this paragraph shall be assessed
23 equally to each institution subject to the jurisdiction
24 of the agency or association.”.

1 **SEC. 11. CREDIT TRANSFER AGREEMENT.**

2 Section 496(c) of the Higher Education Act of 1965
3 (20 U.S.C. 1099b(c)), as amended by section 8(b), is fur-
4 ther amended by adding at the end the following:

5 “(11)(A) not later than 4 years after the date
6 of enactment of the Accreditation Reform and En-
7 hanced Accountability Act of 2016, requires that
8 each institution subject to the jurisdiction of the
9 agency or association have a credit transfer agree-
10 ment with all other institutions accredited by the
11 agency or association that provides for the transfer
12 of credit earned for all general education courses
13 and for courses required as part of substantially
14 similar programs; and

15 “(B) confirms, as a part of the accreditation or
16 reaccreditation review conducted by the agency or
17 association, that the institution has transfer of cred-
18 it policies that—

19 “(i) meet the requirements of subpara-
20 graph (A);

21 “(ii) are publicly disclosed; and

22 “(iii) include a statement of the criteria es-
23 tablished by the institution regarding the trans-
24 fer of credit earned at another institution of
25 higher education.”.

1 **SEC. 12. ACCREDITATION DISCLOSURE.**

2 (a) ACCREDITATION DISCLOSURE SYSTEM.—Part G
3 of title IV of the Higher Education Act of 1965 (20 U.S.C.
4 1088 et seq.) is amended by adding at the end the fol-
5 lowing:

6 **“SEC. 493E. ACCREDITATION DISCLOSURE SYSTEM.**

7 “(a) IN GENERAL.—Not later than 18 months after
8 the date of enactment of the Accreditation Reform and
9 Enhanced Accountability Act of 2016, the Secretary shall
10 design and establish standards for standardized online ac-
11 creditation disclosures by institutions of higher education
12 that participate in any program under this title. The Sec-
13 retary shall require each such institution of higher edu-
14 cation to—

15 “(1) display, prominently on the institution’s
16 website, a standard form of disclosure of the institu-
17 tion’s accreditation status, designed by the Sec-
18 retary, including whether the status is under appeal;

19 “(2) regularly update such display as its ac-
20 creditation status changes; and

21 “(3) include a link from such display, including
22 on the homepage of the institution’s website, to any
23 applicable supporting public documentation relating
24 to the institution’s accreditation status, including
25 correspondence to and from the accrediting agency
26 or association.

1 “(b) ACCREDITATION TERMINOLOGY.—The Sec-
2 retary shall work with accrediting agencies and associa-
3 tions to establish by regulation common definitions for the
4 various accreditation statuses and actions taken by accred-
5 iting agencies and associations, for use by such agencies
6 and associations in all public documents and reporting to
7 the Secretary, State licensing or authorizing agency, and
8 State Attorneys General.

9 “(c) COORDINATION.—In developing the system de-
10 scribed in subsection (a), the Secretary shall consult with
11 the Committee on Health, Education, Labor, and Pen-
12 sions of the Senate and the Committee on Education and
13 the Workforce of the House of Representatives, other Fed-
14 eral agencies, student and consumer advocacy groups, in-
15 stitutions of higher education, accrediting agencies and as-
16 sociations, and other entities determined appropriate by
17 the Secretary.

18 “(d) ACCREDITATION STATUS.—In this section, the
19 term ‘accreditation status’ means—

20 “(1) the issuance of any order to show cause;

21 “(2) the initiation of an enhanced accreditation
22 review under this Act and any action taken as a re-
23 sult of such review;

24 “(3) any action taken pursuant to section
25 496(t)(2);

1 “(4) any other action taken by an accrediting
2 agency or association, as described in subparagraph
3 (A), (B), or (C) of section 496(c)(8); and

4 “(5) any other factor determined appropriate by
5 the Secretary through regulation.

6 “(e) TRANSPARENCY.—Not later than 1 year after
7 the date of enactment of the Accreditation Reform and
8 Enhanced Accountability Act of 2016, the Secretary shall
9 collect from accrediting agencies and associations and
10 publish on a federally maintained website all final docu-
11 ments produced in the agencies’ and associations’ reviews
12 of institutions of higher education, including site-visit re-
13 ports, decision letters, a list of members of the review com-
14 mittees, and all other final documents that the Secretary
15 determines appropriate.”.

16 (b) PROGRAM PARTICIPATION AGREEMENT.—Section
17 487(a) of the Higher Education Act of 1965 (20 U.S.C.
18 1094(a)) is amended by adding at the end the following:

19 “(30) Not later than 3 years after the date of
20 enactment of the Accreditation Reform and En-
21 hanced Accountability Act of 2016, the institution
22 will use, prominently on the institution’s website, the
23 standardized online accreditation disclosure system
24 established by the Secretary under section 493E
25 to—

1 “(A) disclose the accreditation status of
2 the institution; and

3 “(B) update the disclosure within 48 hours
4 of receiving notification from an accrediting
5 agency or association of a change in accredita-
6 tion status.”.

7 **SEC. 13. DIFFERENTIATED ACCREDITATION STATUS.**

8 Section 496 of the Higher Education Act of 1965 (20
9 U.S.C. 1099b), as amended by sections 5, 6, and 7, is
10 further amended by adding at the end the following:

11 “(u) DIFFERENTIATED ACCREDITATION STATUS.—

12 “(1) IN GENERAL.—Solely for purposes of con-
13 sumer information, an accrediting agency or associa-
14 tion may designate an institution of higher edu-
15 cation that the agency or association accredits as
16 ‘accredited with distinction’ or ‘accredited with risk’
17 according to definitions developed by the Secretary
18 under paragraph (2).

19 “(2) DESIGNATION DEFINITIONS.—The Sec-
20 retary, through regulation, shall develop definitions
21 of ‘accredited with distinction’ and ‘accredited with
22 risk’ that an accrediting agency or association shall
23 use in making designations under paragraph (1)
24 based on student achievement standards developed

1 in accordance with subsection (a)(5)(A) in relation
2 to the institution of higher education’s mission.”.

3 **SEC. 14. TEACH-OUT PLANS.**

4 Section 496(c) of the Higher Education Act of 1965
5 (20 U.S.C. 1099b(c)), as amended by sections 8 and 11,
6 is further amended—

7 (1) by striking paragraph (3) and inserting the
8 following:

9 “(3)(A) requires an institution to submit for
10 approval to the accrediting agency or association a
11 teach-out plan if—

12 “(i) the accrediting agency or association
13 acts to withdraw, terminate, or suspend the ac-
14 creditation of the institution;

15 “(ii) the accrediting agency or association
16 requires the institution to show cause for con-
17 tinued accreditation; or

18 “(iii) the institution notifies the accrediting
19 agency or association that the institution in-
20 tends to cease operations;

21 “(B) requires an institution to—

22 “(i) submit for approval to the accrediting
23 agency or association a teach-out plan not later
24 than 30 days after the date—

1 “(I) the Department notifies the ac-
2 crediting agency or association of an action
3 against the institution pursuant to section
4 487(f);

5 “(II) the accrediting agency or asso-
6 ciation places the institution on probation
7 or show cause, or notifies the institution
8 that the agency or association deems it a
9 high-risk institution;

10 “(III) the institution is required to
11 post a Letter of Credit to the Department
12 of Education;

13 “(IV) the institution is placed on
14 Heightened Cash Monitoring 2;

15 “(V) the institution receives a failing
16 Financial Responsibility Composite Score;

17 “(VI) the institution is subject to an
18 enhanced accreditation review under sub-
19 section (s)(2); or

20 “(VII) the institution is at risk under
21 regulations prescribed by the Secretary for
22 this purpose; and

23 “(ii) regularly update and maintain the
24 teach-out plan until such time as the Secretary
25 determines; and

1 “(C) does not approve a teach-out plan that in-
2 cludes a plan for the participation of any institution
3 of higher education that is the subject of an inves-
4 tigation, settlement, or adverse judgment by a Fed-
5 eral authority (including the Department) or a State
6 for a violation relating to fraud or abuse, deceptive
7 practices, or material harm to students enrolled, or
8 previously enrolled, at the institution;”;

9 (2) by redesignating paragraphs (4) through
10 (11) as paragraphs (5) through (12), respectively;
11 and

12 (3) by inserting after paragraph (3) the fol-
13 lowing:

14 “(4) with respect to private institutions, en-
15 sures that sufficient funds have been, or will be, allo-
16 cated to carry out all teach-out plans and agree-
17 ments required under paragraph (3);”.

18 **SEC. 15. JURISDICTION.**

19 Section 496 of the Higher Education Act of 1965 (20
20 U.S.C. 1099b), as amended by sections 5, 6, 7, and 13,
21 is further amended by adding at the end the following:

22 “(v) **JURISDICTION.**—Notwithstanding any other
23 provision of law, any civil action brought by any party re-
24 garding this section or implementing regulations, or an in-
25 stitution of higher education seeking accreditation from,

1 or accredited by, an accrediting agency or association rec-
2 ognized by the Secretary for the purpose of this title and
3 involving the denial, withdrawal, or termination of accredi-
4 tation of the institution of higher education, shall be
5 brought in the appropriate United States district court.”.

6 **SEC. 16. CHANGE OF ACCREDITOR.**

7 Section 496(h) of the Higher Education Act of 1965
8 (20 U.S.C. 1099b(h)) is amended to read as follows:

9 “(h) CHANGE OF ACCREDITING AGENCY OR ASSOCIA-
10 TION.—The Secretary shall not recognize the accreditation
11 of any otherwise eligible institution of higher education
12 that is in the process of changing its accrediting agency
13 or association, including due to a change in ownership of
14 the institution, unless—

15 “(1) the institution submits for approval to the
16 Secretary all materials relating to the prior accredi-
17 tation, including materials that the Secretary deter-
18 mines demonstrate reasonable cause for changing
19 the accrediting agency or association;

20 “(2) the institution received full reaccreditation
21 from the prior accrediting agency or association dur-
22 ing the 24-month period preceding the date of the
23 recognition; and

1 “(3) the institution was reaccredited under its
2 prior accrediting agency or association’s most recent
3 accreditation standards.”.

4 **SEC. 17. SENSE OF CONGRESS.**

5 It is the sense of Congress that nothing in this Act
6 or the amendments made by this Act limits the generally
7 accepted principles of academic freedom of an institution
8 of higher education or should be construed as providing
9 authority to the Secretary of Education to limit that aca-
10 demic freedom.

11 **SEC. 18. RULES OF CONSTRUCTION; STUDENT ACHIEVE-**
12 **MENT DATA.**

13 Section 496 of the Higher Education Act of 1965 (20
14 U.S.C. 1099b), as amended by sections 5, 6, 7, 13, and
15 15, is further amended by adding at the end the following:

16 “(w) **DIFFERENTIATED ACCREDITATION PROC-**
17 **ESSES.**—Nothing in this title shall be interpreted to pre-
18 vent an accrediting agency or association from estab-
19 lishing differentiated accreditation processes for institu-
20 tions based on risk.

21 “(x) **APPLICABILITY.**—The provisions of this section
22 shall apply to both institutional and programmatic accred-
23 itation that is a condition for an institution to be an eligi-
24 ble institution for the purposes of any program authorized
25 under this title.

1 “(y) STUDENT ACHIEVEMENT DATA.—

2 “(1) IN GENERAL.—The Secretary shall provide
3 the necessary student achievement data to accred-
4 iting agencies or associations needed to implement
5 subsection (a)(5)(A).

6 “(2) DISAGGREGATION.—To the extent prac-
7 ticable, the data described in paragraph (1) shall be
8 provided to accrediting agencies or associations in a
9 manner that can be disaggregated by Pell Grant re-
10 cipients.”.

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