

H.R. 4508, The Promoting Real Opportunity, Success and Prosperity Through Education Reform (PROSPER) Act

Title I- General Provisions

Sec. 101, 102, and 103

- Strikes provisions in Sec. 102 definition of institution of higher education for purposes of Title IV programs and provides a single definition for institutions of higher education (IHEs).
- • Sec. 103 strikes the definition of distance education.
- Sec. 103 (b) provides a new definition of correspondence education based on the Federal Student Aid Handbook definition, including that “interaction between the institution and the student is limited and the academic instruction by faculty is not regular and substantive.”
- • Sec. 103 (e) Competency Based Education (CBE)- includes a new definition of CBE. CBE is defined as education that measures academic progress and attainment by direct assessment of a student’s mastery of competencies in terms of credit or clock hours. Also provides the educational content and resources, including faculty, necessary to enable students to demonstrate or attain mastery of competencies.
 - A CBE program must have a method to differentiate between knowledge that a student acquired prior to enrollment in CBE, and knowledge that the student acquired as a result of enrollment in the program. Must also be organized in such a manner that the institution can determine what constitutes full-time, half-time, etc... for the purposes of Title IV.
- Pay for Success—Allows IHEs to contract with third party contractors and pay them based on when student outcomes are achieved. Similar to Sec. 8101 of the Elementary and Secondary Education Act.
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Sec. 104 - Regulatory Relief

- • Sec. 104 (a) repeals the definitions of credit hour, gainful employment, and borrower defense.
- • Sec. 104 (b) includes language that the Secretary shall not promulgate or enforce any rule with respect to gainful employment or credit hour.
- • Sec. 104 (b)(3) the Secretary of Education shall not create, administer, or enforce a postsecondary institution rating system or any other performance system to rate institutions of higher education.

Sec. 111 - Free Speech Protections

- Includes a “sense of Congress” that free speech zones and restrictive speech codes are at odds with freedom of speech, as guaranteed by the first amendment.
- Includes a “sense of Congress” that an individual’s religious expression should not be curtailed, and that any institution receiving federal funds should not limit religious expression.
- No public institution receiving Title IV funds will be allowed to restrict free speech through such zones or codes.
- Institutions must annually disclose to current and prospective students any policies related to protected speech on campus, including where and when such speech may occur.

→ *Prepared by the American Council of Education and subject to revision.
Summary as of 12/20/17*

- Establishes the right to submit a complaint to the Department for this provision. The Secretary will designate an employee in the Office of Postsecondary Education to receive complaints from students or student organizations that believe an institution is not in compliance or is enforcing a policy that has not been previously disclosed to students.
- If the Secretary determines the institution was not in compliance based on the complaint, the Secretary can require the institution to allow the complainant the opportunity to speak. If the Secretary determines the denial/ complaint was a violation of Constitutional rights, the Secretary will refer the complaint to the Department of Justice.
- Includes a sense of Congress on inclusion and respect that states: “harassment and violence targeted at students because of their race, color, religion, sex, or national origin....should be condemned; institutions of higher education and law enforcement should be commended for their efforts to combat violence, extremism, and racism and to protect all members of the community from harm; and Congress is committed to supporting institutions of higher education in creating safe inclusive, and respectful learning environments that fully respect community members from all backgrounds.”

Sec. 112 - National Advisory Committee on Institutional Quality and Integrity

- • Reauthorizes NACIQI.
- • The Secretary may remove any member who was appointed by a predecessor of the Secretary and name new members.

Sec. 113 - Repeal of Certain Reporting Requirements

- Repeals Sec. 117, disclosure of foreign gifts. This was requested as part of the 2015 taskforce report on federal regulation of higher education.

Sec. 118 - Drug and Alcohol Abuse Prevention

- Requires institutions to adopt and implement a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees.
- Program must include annual distribution of institutional standards of conduct and sanctions that address these issues and a description of any drug or alcohol counseling or treatment available.
- Department of Education, in consultation with the Department of Health and Human Services, will share best practices for institutions of higher education to address and prevent substance abuse and support students in recovery, including information on opioid abuse.
- Under Sec. 487 (a)(10) an institution must certify that it has a drug abuse prevention program and that program must include opioid abuse prevention.

Sec. 122 - Campus Access for Religious Groups

- Institutions receiving Title IV cannot deny a religious student organization any right, benefit, or privilege that is generally afforded to other student organizations at the institution.

Sec. 125 – Single Sex Student Social Organizations

- Institutions with policies regarding the recognition of single-sex social organizations may not “require or coerce” such organizations:

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- Renames “Prior Experience” to “Accountability for Outcomes”;
- Adoption of COE recommendations on meaningful outcome criteria for most of the TRIO programs;
- Establishes Pell Grant eligibility as a means of determining low-income status; and
- Includes a prohibition on absolute, competitive, or other preference priorities.
- Requires additional documentation for TRIO outreach programs (i.e., Talent Search and EOC).

Section 405 - Child Care Access Means Parents in School

- Requires institutions to prepare an annual report on populations served, resources available (and source), use of federal funds and documentation of appropriate licensure, etc., which the Secretary will make publicly available.

Sec. 406 - Repeals

- Academic Competitiveness Grants
- Federal Supplemental Educational Opportunity Grant (FSEOG)
- Leveraging Educational Assistance Partnership (LEAP)
- Byrd Honors Scholarship

Section 407 - TEACH Grants

- Sunset TEACH Grants on June 30, 2018.

Section 422 - Loan Rehabilitation

- Allows loans to be rehabilitated two times (as compared to the current one time).

Section 423 - Loan Forgiveness for Teachers

- Strikes loan cancellation provision for teachers under Perkins.

Section 424 - Loan Forgiveness for Service in Areas of National Need

- Strikes loan cancellation provision for teachers under Perkins.

Section 425 - Loan Repayment for Civil Legal Assistance Attorneys

- • Grandfathers existing provisions.

Section 426 - Sunset of Cohort Default Rate and other conforming changes

- Eliminates Cohort Default Rate (CDR) calculations and implications for eligibility.
- Replaces CDR with a program-level cohort rate for eligibility (so an institution could have a mix of Title IV-eligible and non-eligible programs).

Section 427 - Closed School and Other Discharges

- Requires every borrower seeking discharge to submit a written request under penalty of perjury, containing information and documentation related to their experiences with the closed school.
- Requires borrowers submitting claims to cooperate with the Secretary in any actions to recover funds.



→ **Section 451 - Termination of Federal Direct Loan Program**

- Starting July 1, 2019, grandfathers all existing Direct Loan (DL) borrowers (those holding an outstanding balance), who can continue to borrow under the DL rules until they complete their program or September 30, 2024, for undergraduate, graduate, and professional programs.
- Elimination of Direct Loans includes the elimination of subsidized Stafford undergraduate loans.
 - Allows for subsidized loans to continue for eligible borrowers under the same conditions.
- New borrowers begin under the ONE loan program starting July 1, 2019.
- All borrowers must borrow under ONE loan program on or after October 1, 2024.

Section 452 - Borrower Defenses

- Requires all borrowers to file an individual application.
- Borrowers cannot recover more than they have already paid.
- Borrowers have a three-year window following the misconduct or breach-of-contract to assert a defense to repayment.
- Restricts decisions to administrative law judges or their equivalents.
- No determinations may be made without representation by students and institutions if either party wishes.
- Requires borrowers applying to consolidate their loans under the ONE loan program.
- Suspends collection activities on defaulted loans under consideration by the Secretary.

- Limits Secretary's ability to collect funds from an institution for successful defenses against repayment to three years from the end of the last award year the student attended the institution.

Section 454 - Loan Cancellation for Teachers

- Rescinds loan cancellation for teachers under Perkins Loans.

Section 461 - Wind-down of Federal Perkins Loan Program

- Allows an institution to request a final audit of its participation in the program within 60 days of notifying the Dept. of its desire to terminate their participation in the program.
- Termination is effective upon an institution giving up its collection and servicing roles; completing all collections and servicing; and/or completing asset distribution.
- Institutions can assign loans for servicing and collection to the Secretary, and the Secretary will assign collected funds to the Treasury.

Section 461 - Federal ONE Loan Program

- Requires disbursement be made in substantially equal weekly or monthly installments over the period of enrollment.
- Allows for unequal payments to allow for unequal costs, such as upfront costs.
- The first installment to new borrowers takes place no less than 30 days after enrollment, unless the student is enrolled in an educational program which has a loan repayment rate of 60% or greater.

Section 465 - Loan Limits and Interest Rates

- Annual loan limit for dependent undergraduate students who have not successfully completed the first year of undergraduate education: \$7,500 (currently \$5,500 for first year).
- Annual loan limit for dependent undergraduate students who have successfully completed the first year of undergraduate education: \$8,500 (currently \$6,500 for second year).
- Annual loan limit for dependent undergraduate students who have successfully completed the first and second year of a program of undergraduate education but have not successfully completed the remainder of such program: \$9,500 (currently \$9,500 for third and successive years).
- Dependent Aggregate Loan limit of \$39,000.
- Annual loan limit for independent students or dependent students whose parents are unable to borrow a loan who have not successfully completed the first year of a program of undergraduate education: \$11,500 (currently \$9,500).
- Annual loan limit for independent students or dependent students whose parents are unable to borrow a loan who have successfully completed the first year of a program of undergraduate education but have not successfully completed the remainder of a program of undergraduate education: \$12,500 (currently \$10,500).
- Annual loan limit for independent students or dependent students whose parents are unable to borrow a loan who have successfully completed the first and second year of a program of undergraduate education but have not successfully completed the remainder of such program: \$14,500 (currently \$12,500).

- Aggregate loan limit of \$60,250 for independent students or dependent students whose parents are unable to borrow a loan.
- • Cap graduate or professional students at an annual loan limit of \$28,500, an aggregate loan limit of \$150,000.
- Parent borrowers on behalf of a dependent student enrolled in undergraduate education are capped at an annual amount of \$12,500 per dependent student, and aggregate amount of \$56,250 per dependent.
- Allows institutions to set lower loan limits for specific categories of students, based on:
 - Year of the program for which the student is seeking a loan.
 - Credential level.
 - Enrollment intensity.
 - Anticipated future ability to repay, based on U.S. Bureau of Labor Statistics (BLS) data related to average earnings of typical occupations pursued by graduates of the program in that geographic area.
- Health occupations limits are maintained.
- Undergraduate loan interest rates are calculated using the ten-year Treasury rate as of June 1, plus 2.05%, with a maximum interest rate of 8.25%.
- • Graduate loan interest rates are calculated using the ten-year Treasury rate as of June 1, plus 3.60%, with a maximum interest rate of 9.50%.
- Parent loan interest rates are calculated using the ten-year Treasury rate as of June 1, plus 4.60%, with a maximum interest rate of 10.50%.
- Eliminates origination fees.

Section 466 - Repayment

- • Eliminates all repayment plans and creates a new income-based repayment (IBR) plan.
- • Two options: either the 10-year standard repayment, or an IBR where borrowers pay 15% of income and a minimum of \$25 a month, capped at the total amount (principal and interest) they would have paid under the standard 10-year plan.
- Due to medical or extreme economic hardship, a payment can be lowered to \$5 monthly.
- If a borrower does not choose between the two plans, the Secretary places the borrower in the standard repayment plan.
- • No forgiveness is available. Borrowers pay the amount of principle plus 10 years' interest as long as they are able.
- The total cap protects against negative amortization. They are "cancelling" the balance of a borrowers' interest above what you would have paid on the 10-year plan.
- • Appears to eliminate the IBR exception for married couples filing separately.
- • No public service loan forgiveness, etc. All those programs are eliminated going forward.
- No option for economic forbearance (since you can go into the IBR program). Retains forbearance options for students and active military (but no interest accrues for active military).

Sec. 468 - Consolidation

- Consolidation option remains, but you do not have the cap on interest if you consolidate.

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Title IV, Part H - Program Integrity

Sec. 495 - Repeal of and Prohibition on State Authorization Regulations

- Repeals October 29, 2010, and Dec. 19, 2016, state authorization regulations.
- Institutions of higher education shall provide evidence to the Secretary that the institution has authority to operate within each state in which it maintains a physical location.
- Treatment of religious institutions: an institution will be treated as legally authorized to operate educational programs if the institution is recognized as a religious institution by the state, and as a religious institution it is exempt from any “provision of state law that requires institutions to be authorized by the state to operate beyond secondary education.”
- Secretary will not promulgate rules in the area of state authorization.

Sec. 496 - Recognition of Accrediting Agency or Association

- Strikes 10 standards in current law and replaces them with one standard on student outcomes, which is set in relation to the institution’s mission. The standard can be set by the accreditor or the institution as long as the institution defines expected student learning goals and outcomes, measures and evaluates student learning and outcomes, uses that information to improve the institution or program, and makes that information available to appropriate constituencies.
- Accreditors must set goals and institutions must demonstrate performance toward them.
- Accreditors must annually identify schools at risk of not meeting the standards and must check in with those institutions.
- Requires one public member on accreditor commission to be from business community.
- Accreditors must publically post list of institutions accredited by the agency, along with the most recent year of accreditation, and the year they expect to be evaluated.
- If an institution attempts to change its accrediting agency, the Secretary will not recognize the accreditation of an otherwise eligible institution, if the institution is subject to a pending or final action from a state agency; a decision or pending decision from an accreditor to deny accreditation; or is on probation from an accreditor.
- Institutions would be allowed to change accreditors, without first seeking approval from the Secretary of Education, if there are not existing sanctions on the institution.

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Title VII - Graduate and Postsecondary Improvement Programs

Sec. 701 - Graduate education programs

- Repeals Jacob K. Javits Fellowship program and the Thurgood Marshall Legal Educational Opportunity Program.
- Authorizes Graduate Assistance in Areas of National Need (GAANN) at FY 2017 funding level for FY 2019 through FY 2024.

