
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1439

State of Washington

65th Legislature

2017 Regular Session

By House Appropriations (originally sponsored by Representatives Pollet, Haler, Tarleton, Fey, Sells, Orwall, Ryu, Stanford, and Dolan)

READ FIRST TIME 02/24/17.

1 AN ACT Relating to regulating the institutions of higher
2 education, including for-profit institutions and private vocational
3 schools, to protect students from unfair business practices; amending
4 RCW 28C.10.050 and 28C.10.110; adding new sections to chapter 28B.85
5 RCW; creating new sections; and prescribing penalties.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** (1) In 2016, the student achievement
8 council contracted with the William D. Ruckelshaus center to conduct
9 a two-part study analyzing the system of for-profit degree-granting
10 institutions and private vocational schools in Washington. The
11 Ruckelshaus center issued its first report in December 2016, and this
12 act incorporates some of the findings and recommendations from the
13 first phase of the report, including the benefits of ensuring that
14 recruitment advertising and materials are consistent with state and
15 federal verified data. This act also authorizes the second part of
16 the study, as recommended by the center, including discussions of
17 agency jurisdiction and consistency.

18 (2) The legislature finds that there are many private for-profit
19 and nonprofit career colleges and degree-granting institutions
20 providing Washington state residents with important postsecondary and
21 career opportunities that contribute to the economic security of

1 Washington residents and aid in meeting the needs of our state's
2 growing economy. The legislature also recognizes that there have been
3 high profile closures of, or federal and other state determinations
4 regarding, some for-profit or formerly for-profit institutions that
5 have damaged the reputation of the sector and impacted the
6 expectations and financial stability of some students. It is the
7 legislature's intent to provide a framework to ensure a level playing
8 field exists for the many institutions that provide disclosures to
9 prospective students based on verifiable metrics, which allow
10 prospective students to be able to make the best decisions on school
11 and career choices and on financial aid and loans to finance their
12 educational goals. The legislature also intends to ensure that
13 students are provided the information they need to make the best
14 decisions for their educational future and careers in event of
15 closure or potential closure of an institution. In addition, the
16 legislature intends to protect the state's interest in the integrity
17 of its grant and aid programs, from private decisions to close
18 schools or programs under circumstances that may prevent students
19 from obtaining the degree or certificate and career services that the
20 students expected upon enrollment.

21 NEW SECTION. **Sec. 2.** (1) Subject to the availability of amounts
22 appropriated for this specific purpose, the student achievement
23 council must continue administering the two-part study of for-profit
24 degree-granting institutions and private vocational schools that was
25 authorized under section 609, chapter 36, Laws of 2016 sp. sess.

26 (2) As part of the second part of the process, the study must
27 contain findings and recommendations regarding the creation of an
28 ombuds to serve students of degree-granting institutions and private
29 vocational schools, including a recommendation on which state agency
30 should house the position, and if there are other ombuds positions
31 created by the legislature that can serve these students.

32 (3) The student achievement council and the workforce training
33 and education coordinating board must provide a report on the study
34 to the legislature by December 31, 2017.

35 NEW SECTION. **Sec. 3.** A new section is added to chapter 28B.85
36 RCW to read as follows:

1 (1) The council may deny, revoke, or suspend the authorization of
2 any degree-granting institution authorized to operate under this
3 chapter that is found to be in violation of this chapter.

4 (2) It is a violation of this chapter for a degree-granting
5 institution authorized to operate under this chapter or an agent
6 employed by such a degree-granting institution to provide prospective
7 students with any testimonial, endorsement, or other information that
8 a reasonable person would find was likely to mislead or deceive
9 prospective students or the public regarding current practices of the
10 school, current conditions for employment opportunities,
11 postgraduation employment by industry, or probable earnings in the
12 occupation for which the education was designed, the likelihood of
13 obtaining financial aid or low-interest loans for tuition, or the
14 ability of graduates to repay loans.

15 NEW SECTION. **Sec. 4.** A new section is added to chapter 28B.85
16 RCW to read as follows:

17 If a degree-granting institution authorized to operate under this
18 chapter presents data about its completion rates, employment rates,
19 loan or indebtedness metrics, or its graduates' median hourly and
20 annual earnings, the posted data must be consistent with the data
21 posted on the workforce training and education coordinating board's
22 career bridge web site or the data posted by the United States
23 department of education, if the board or the department of education
24 has posted such data.

25 **Sec. 5.** RCW 28C.10.050 and 2014 c 11 s 2 are each amended to
26 read as follows:

27 (1) The agency shall adopt by rule minimum standards for entities
28 operating private vocational schools. The minimum standards shall
29 include, but not be limited to, requirements to assess whether a
30 private vocational school is eligible to obtain and maintain a
31 license in this state.

32 (2) The requirements adopted by the agency shall, at a minimum,
33 require a private vocational school to:

34 (a) Disclose to the agency information about its ownership and
35 financial position and ((~~to~~)) demonstrate to the agency that the
36 school is financially viable and responsible and that it has
37 sufficient financial resources to fulfill its commitments to

1 students. Financial disclosures provided to the agency shall not be
2 subject to public disclosure under chapter 42.56 RCW;

3 (b) Follow a uniform statewide cancellation and refund policy as
4 specified by the agency;

5 (c) Disclose through use of a school catalog, web site, brochure,
6 or other written material, necessary information to students so that
7 students may make informed enrollment decisions. The agency shall
8 specify what data and information ((is)) are required. To the extent
9 that these web sites or materials present any data on the completion
10 rates, employment rates, loan or indebtedness metrics, and its
11 graduates' median hourly and annual earnings for any of the private
12 vocational schools or its programs, the posted data must be
13 consistent with the data posted on the agency's career bridge web
14 site or the data posted by the United States department of education,
15 if the agency or the department of education has posted such data.
16 Nothing in this subsection requires the agency to make changes to the
17 career bridge web site or add new elements or features to the career
18 bridge web site;

19 (d) Use an enrollment contract or agreement that includes: (i)
20 The school's cancellation and refund policy, (ii) a brief statement
21 that the school is licensed under this chapter and that inquiries,
22 concerns, or complaints may be made to the agency, and (iii) other
23 necessary information as determined by the agency;

24 (e) Describe accurately and completely in writing to students
25 before their enrollment prerequisites and requirements for (i)
26 completing successfully the programs of study in which they are
27 interested and (ii) qualifying for the fields of employment for which
28 their education is designed;

29 (f) Comply with the requirements of RCW 28C.10.084;

30 (g) Assess the basic skills and relevant aptitudes of each
31 potential student to determine that a potential student has the basic
32 skills and relevant aptitudes necessary to complete and benefit from
33 the program in which the student plans to enroll, including but not
34 limited to administering a United States department of education-
35 approved English as a second language exam before enrolling students
36 for whom English is a second language unless the students provide
37 proof of graduation from a United States high school or proof of
38 completion of a high school equivalency certificate as provided in
39 RCW 28B.50.536 in English or results of another academic assessment

1 determined appropriate by the agency. Guidelines for such assessments
2 shall be developed by the agency, in consultation with the schools;

3 (h) Discuss with each potential student the potential student's
4 obligations in signing any enrollment contract and/or incurring any
5 debt for educational purposes. The discussion shall include the
6 inadvisability of acquiring an excessive educational debt burden that
7 will be difficult to repay given employment opportunities and average
8 starting salaries in the potential student's chosen occupation;

9 (i) Ensure that any enrollment contract between the private
10 vocational school and its students has an attachment in a format
11 provided by the agency. The attachment shall be signed by both the
12 school and the student. The attachment shall stipulate that the
13 school has complied with (h) of this subsection and that the student
14 understands and accepts his or her responsibilities in signing any
15 enrollment contract or debt application. The attachment shall also
16 stipulate that the enrollment contract shall not be binding for at
17 least five days, excluding Sundays and holidays, following signature
18 of the enrollment contract by both parties; and

19 (j) Comply with the requirements related to qualifications of
20 administrators and instructors.

21 (3) The agency may deny a private vocational school's application
22 for licensure if the school fails to meet the requirements in this
23 section.

24 (4) The agency may determine that a licensed private vocational
25 school or a particular program of a private vocational school is at
26 risk of closure or termination if:

27 (a) There is a pattern or history of substantiated student
28 complaints filed with the agency pursuant to RCW 28C.10.120; or

29 (b) The private vocational school fails to meet minimum licensing
30 requirements and has a pattern or history of failing to meet the
31 minimum requirements.

32 (5) If the agency determines that a private vocational school or
33 a particular program is at risk of closure or termination, the agency
34 shall require the school to take corrective action.

35 **Sec. 6.** RCW 28C.10.110 and 2014 c 11 s 6 are each amended to
36 read as follows:

37 (1) It is a violation of this chapter for an entity operating a
38 private vocational school to engage in an unfair business practice.
39 The agency may deny, revoke, or suspend the license of any entity

1 that is found to have engaged in a substantial number of unfair
2 business practices or that has engaged in significant unfair business
3 practices.

4 (2) It is an unfair business practice for an entity operating a
5 private vocational school or an agent employed by a private
6 vocational school to:

7 (a) Fail to comply with the terms of a student enrollment
8 contract or agreement;

9 (b) Use an enrollment contract form, catalog, brochure, or
10 similar written material affecting the terms and conditions of
11 student enrollment other than that previously submitted to the agency
12 and authorized for use;

13 (c) Advertise in the help wanted section of a newspaper or
14 otherwise represent falsely, directly or by implication, that the
15 school is an employment agency, is making an offer of employment or
16 otherwise is attempting to conceal the fact that what is being
17 represented are course offerings of a school;

18 (d) Represent falsely, directly or by implication, that an
19 educational program is approved by a particular industry or that
20 successful completion of the program qualifies a student for
21 admission to a labor union or similar organization or for the receipt
22 of a state license in any business, occupation, or profession;

23 (e) Represent falsely, directly or by implication, that a student
24 who successfully completes a course or program of instruction may
25 transfer credit for the course or program to any institution of
26 higher education;

27 (f) Represent falsely, directly or by implication, in advertising
28 or in any other manner, the school's size, location, facilities,
29 equipment, faculty qualifications, number of faculty, or the extent
30 or nature of any approval received from an accrediting association;

31 (g) Represent that the school is approved, recommended, or
32 endorsed by the state of Washington or by the agency, except the fact
33 that the school is authorized to operate under this chapter may be
34 stated;

35 (h) Provide prospective students with: Any testimonial,
36 endorsement, or other information ((which has the tendency)) that a
37 reasonable person would find likely to mislead or deceive prospective
38 students or the public, including those regarding current practices
39 of the school((r)); information regarding rates of completion or
40 postgraduation employment by industry, or its graduates' median

1 hourly or annual earnings, that is not consistent with the
2 presentation of data as established under RCW 28C.10.050(2)(c);
3 current conditions for employment opportunities((7)); postgraduation
4 employment by industry or probable earnings in the occupation for
5 which the education was designed; total cost to obtain a degree or
6 certificate; the acceptance of a degree or certificate by employers
7 as a qualification for employment; the acceptance of courses, a
8 degree, or certificate by higher education institutions; the
9 likelihood of obtaining financial aid or low-interest loans for
10 tuition; and the ability of graduates to repay loans;

11 (i) Designate or refer to sales representatives as "counselors,"
12 "advisors," or similar terms which have the tendency to mislead or
13 deceive prospective students or the public regarding the authority or
14 qualifications of the sales representatives;

15 (j) Make or cause to be made any statement or representation in
16 connection with the offering of education if the school or agent
17 knows or reasonably should have known the statement or representation
18 to be false, substantially inaccurate, or misleading;

19 (k) Engage in methods of advertising, sales, collection, credit,
20 or other business practices which are false, deceptive, misleading,
21 or unfair, as determined by the agency by rule; or

22 (l) Attempt to recruit students in or within forty feet of a
23 building that contains a welfare or unemployment office. Recruiting
24 includes, but is not limited to canvassing and surveying. Recruiting
25 does not include leaving materials at or near an office for a person
26 to pick up of his or her own accord, or handing a brochure or leaflet
27 to a person provided that no attempt is made to obtain a name,
28 address, telephone number, or other data, or to otherwise actively
29 pursue the enrollment of the individual.

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