

E2SHB 1439 - S COMM AMD
By Committee on Higher Education

OUT OF ORDER 03/01/2018

1 Strike everything after the enacting clause and insert the
2 following:

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

14 (2) The legislature finds that there are many private for-profit
15 and nonprofit career colleges and degree-granting institutions
16 providing Washington state residents with important postsecondary and
17 career opportunities that contribute to the economic security of
18 Washington residents and aid in meeting the needs of our state's
19 growing economy. The legislature also recognizes that there have been
20 high profile closures of, or federal and other state determinations
21 regarding, some for-profit or formerly for-profit institutions that
22 have damaged the reputation of the sector and impacted the
23 expectations and financial stability of some students. It is the
24 legislature's intent to provide a framework to ensure a level playing
25 field exists for the many institutions that provide disclosures to
26 prospective students based on verifiable metrics, which allow
27 prospective students to be able to make the best decisions on school
28 and career choices and on financial aid and loans to finance their
29 educational goals. The legislature also intends to ensure that
30 students are provided the information they need to make the best
31 decisions for their educational future and careers in event of
32 closure or potential closure of an institution. In addition, the

1 legislature intends to protect the state's interest in the integrity
2 of its grant and aid programs, from private decisions to close
3 schools or programs under circumstances that may prevent students
4 from obtaining the degree or certificate and career services that the
5 students expected upon enrollment.

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

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

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

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

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

25 (2) It is a violation of this chapter for a degree-granting
26 institution authorized to operate under this chapter or an agent
27 employed by such a degree-granting institution to:

28 (a) Provide prospective students with any testimonial,
29 endorsement, or other information that a reasonable person would find
30 was likely to mislead or deceive prospective students or the public
31 regarding current practices of the school, current conditions for
32 employment opportunities, postgraduation employment by industry, or
33 probable earnings in the occupation for which the education was
34 designed, the likelihood of obtaining financial aid or low-interest
35 loans for tuition, or the ability of graduates to repay loans; or

36 (b) Use any official United States or department of defense
37 military logo, seal, or insignia, in advertising or promotional

1 materials without authorization or permission from the United States
2 military or department of defense.

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

5 If a degree-granting institution authorized to operate under this
6 chapter presents data about its completion rates, employment rates,
7 loan or indebtedness metrics, or its graduates' median hourly and
8 annual earnings, the presentation of that data must be consistent
9 with the methodology and procedures used by schools presenting data
10 on the workforce training and education coordinating board's career
11 bridge web site, the United States department of education, or other
12 means to assure consistent and accurate reporting as determined by
13 the council.

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

16 (1) The agency shall adopt by rule minimum standards for entities
17 operating private vocational schools. The minimum standards shall
18 include, but not be limited to, requirements to assess whether a
19 private vocational school is eligible to obtain and maintain a
20 license in this state.

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

23 (a) Disclose to the agency information about its ownership and
24 financial position and ~~((to))~~ demonstrate to the agency that the
25 school is financially viable and responsible and that it has
26 sufficient financial resources to fulfill its commitments to
27 students. Financial disclosures provided to the agency shall not be
28 subject to public disclosure under chapter 42.56 RCW;

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

31 (c) Disclose through use of a school catalog, web site, brochure,
32 or other written material, necessary information to students so that
33 students may make informed enrollment decisions. The agency shall
34 specify what data and information ((is)) are required. To the extent
35 that these web sites or materials present any data on the completion
36 rates, employment rates, loan or indebtedness metrics, and its
37 graduates' median hourly and annual earnings for any of the private
38 vocational schools or its programs, the posted data must be

1 consistent with the data posted on the agency's career bridge web
2 site or the data posted by the United States department of education,
3 if the agency or the department of education has posted such data.
4 Nothing in this subsection requires the agency to make changes to the
5 career bridge web site or add new elements or features to the career
6 bridge web site;

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

12 (e) Describe accurately and completely in writing to students
13 before their enrollment prerequisites and requirements for (i)
14 completing successfully the programs of study in which they are
15 interested and (ii) qualifying for the fields of employment for which
16 their education is designed;

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

18 (g) Assess the basic skills and relevant aptitudes of each
19 potential student to determine that a potential student has the basic
20 skills and relevant aptitudes necessary to complete and benefit from
21 the program in which the student plans to enroll, including but not
22 limited to administering a United States department of education-
23 approved English as a second language exam before enrolling students
24 for whom English is a second language unless the students provide
25 proof of graduation from a United States high school or proof of
26 completion of a high school equivalency certificate as provided in
27 RCW 28B.50.536 in English or results of another academic assessment
28 determined appropriate by the agency. Guidelines for such assessments
29 shall be developed by the agency, in consultation with the schools;

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

36 (i) Ensure that any enrollment contract between the private
37 vocational school and its students has an attachment in a format
38 provided by the agency. The attachment shall be signed by both the
39 school and the student. The attachment shall stipulate that the
40 school has complied with (h) of this subsection and that the student

1 understands and accepts his or her responsibilities in signing any
2 enrollment contract or debt application. The attachment shall also
3 stipulate that the enrollment contract shall not be binding for at
4 least five days, excluding Sundays and holidays, following signature
5 of the enrollment contract by both parties; and

6 (j) Comply with the requirements related to qualifications of
7 administrators and instructors.

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

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

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

16 (b) The private vocational school fails to meet minimum licensing
17 requirements and has a pattern or history of failing to meet the
18 minimum requirements.

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

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

24 (1) It is a violation of this chapter for an entity operating a
25 private vocational school to engage in an unfair business practice.
26 The agency may deny, revoke, or suspend the license of any entity
27 that is found to have engaged in a substantial number of unfair
28 business practices or that has engaged in significant unfair business
29 practices.

30 (2) It is an unfair business practice for an entity operating a
31 private vocational school or an agent employed by a private
32 vocational school to:

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

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

1 (c) Advertise in the help wanted section of a newspaper or
2 otherwise represent falsely, directly or by implication, that the
3 school is an employment agency, is making an offer of employment or
4 otherwise is attempting to conceal the fact that what is being
5 represented are course offerings of a school;

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

11 (e) Represent falsely, directly or by implication, that a student
12 who successfully completes a course or program of instruction may
13 transfer credit for the course or program to any institution of
14 higher education;

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

19 (g) Represent that the school is approved, recommended, or
20 endorsed by the state of Washington or by the agency, except the fact
21 that the school is authorized to operate under this chapter may be
22 stated;

23 (h) Provide prospective students with: Any testimonial,
24 endorsement, or other information ((which has the tendency)) that a
25 reasonable person would find likely to mislead or deceive prospective
26 students or the public, including those regarding current practices
27 of the school((τ)); information regarding rates of completion or
28 postgraduation employment by industry, or its graduates' median
29 hourly or annual earnings, that is not consistent with the
30 presentation of data as established under RCW 28C.10.050(2)(c);
31 current conditions for employment opportunities((τ)); postgraduation
32 employment by industry or probable earnings in the occupation for
33 which the education was designed; total cost to obtain a degree or
34 certificate; the acceptance of a degree or certificate by employers
35 as a qualification for employment; the acceptance of courses, a
36 degree, or certificate by higher education institutions; the
37 likelihood of obtaining financial aid or low-interest loans for
38 tuition; and the ability of graduates to repay loans;

39 (i) Designate or refer to sales representatives as "counselors,"
40 "advisors," or similar terms which have the tendency to mislead or

1 deceive prospective students or the public regarding the authority or
2 qualifications of the sales representatives;

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

7 (k) Engage in methods of advertising, sales, collection, credit,
8 or other business practices which are false, deceptive, misleading,
9 or unfair, as determined by the agency by rule; ((~~o~~))

10 (l) Attempt to recruit students in or within forty feet of a
11 building that contains a welfare or unemployment office. Recruiting
12 includes, but is not limited to canvassing and surveying. Recruiting
13 does not include leaving materials at or near an office for a person
14 to pick up of his or her own accord, or handing a brochure or leaflet
15 to a person provided that no attempt is made to obtain a name,
16 address, telephone number, or other data, or to otherwise actively
17 pursue the enrollment of the individual; or

18 (m) Use any official United States military or department of
19 defense logo, seal, or insignia, in advertising or promotional
20 materials without authorization or permission from the United States
21 military or department of defense."

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22 On page 1, line 3 of the title, after "practices;" strike the
23 remainder of the title and insert "amending RCW 28C.10.050 and
24 28C.10.110; adding new sections to chapter 28B.85 RCW; creating new
25 sections; and prescribing penalties."

EFFECT: Broadens the reporting reference requirement to include
other means to assure consistent and accurate reporting.

Prohibits the use of any official United States Military or
department of defense logos, seals, or insignias, in advertising or
promotional materials.

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