FINAL BILL REPORT
EHB 1279

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Synopsis as Enacted

Brief Description: Providing postsecondary education consumer protections.

Sponsors: Representatives Pollet, Leavitt, Doglio, Reed and Simmons.

House Committee on Postsecondary Education & Workforce
Senate Committee on Higher Education & Workforce Development
Senate Committee on Ways & Means

Background:

State Authorization Reciprocity Agreements.
Distance education programs use technology to deliver instructions to students who are separated from their instructor. State Authorization Reciprocity Agreements (SARAs) were established in 2013 by the United States Department of Education (Department) and institutions to streamline regulations around distance education programs. State Authorization Reciprocity Agreements are agreements among member states, districts, and territories to offer distance education courses and programs. State Authorization Reciprocity Agreements are overseen by the National Council for State Authorization Reciprocity Agreements (NC-SARA) and four regional education compacts. The NC-SARA is composed of states, regional state compacts, representatives of accrediting agencies, and other stakeholders, including institutions. Washington is part of the Western Interstate Commission for Higher Education region.

Members of SARAs are states, not institutions or students. Any degree-granting institution based in the United States that holds proper authorization and accreditation is eligible to apply to its home state to participate in the SARA if the home state is a SARA member. Each state has a State Portal Entity that is the lead agency in a state and is responsible for processing SARA applications from institutions within the state. The Washington Student Achievement Council (Council) is the State Portal Entity for Washington.

Minimum Standards for Institutions in Washington.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

The Council is required to adopt minimum standards for degree-granting institutions operating in Washington. The rules must address granting of degrees, quality of education, unfair business practices, financial stability, and other necessary measures to protect Washington citizens against substandard, fraudulent, and deceptive practices. Institutions operating in Washington must be accredited, have applied for accreditation, or have been granted a waiver or exemption by the Council. The Council may not delegate its authority to oversee and enforce compliance with minimum standards to any other state regardless of whether the institution is authorized by another state.

The Council may conduct investigations, issue subpoenas, take evidence, and take other steps, including conducting site inspections, as part of its duties to protect Washington citizens. The Council is authorized to negotiate and enter into interstate reciprocity agreements, including SARAs, with other state or multistate entities. The Council may enter into agreements with degree-granting institutions based in Washington that are otherwise exempt from adhering to the minimum standards for degree granting institutions set by the Council, for the purposes of ensuring consistent consumer protection in interstate distance delivery of higher education. Participating in an interstate reciprocity agreement does not delegate authority for compliance with minimum standards or authority to respond to student complaints.

Surety Bonds.
The Council may require any degree-granting institution in Washington to have an approved surety bond, or other security in lieu of a bond, on file with the Council. In lieu of a bond, an institution may deposit a cash deposit or other negotiable security with the Council as determined by the Council. If a complaint is filed against an institution, the Council may file a claim against the surety and settle claims against the surety. If the surety refuses to pay the demand, the Council may bring an action on the bond on behalf of claimants. If an action is commenced on the bond, the Council may require a new bond to be filed. Obligations and remedies relating to surety bonds also apply to securities filed in lieu of bonds.

Complaints.
A person claiming loss of tuition or fees as a result of unfair business practices may file a complaint with the Council. The complaint must provide the alleged violation and contain all required information. An authorized staff member of the Council or the Attorney General may also bring a claim. The Council must investigate all complaints and may attempt to bring about a settlement and hold a hearing. If the Council determines that an institution is engaged in any unfair business practice, the Council must serve an order to the institution that demands the institution stop the unfair business practices. The Council may also impose penalties and order full or partial restitution for any loss suffered by the complainant due to the unfair business practices.

Federal Regulations Regarding State Authorization Reciprocity Agreements.
In early January 2024 the Department released an issue paper regarding complaint systems

and governance in SARAs. In the issue paper, the Department stated concerns that existing state authorization regulations allowing states to exempt certain institutions from state approval and licensure requirements do not ensure sufficient state oversight of the institutions. The Department also stated concerns that states may have limited complaint processes that rely on other entities without adequate monitoring by the applicable state, including some states deferring all or nearly all of their oversight responsibilities to other states. In the issue paper, the Department proposes the following regulation changes:

- reciprocity agreements must require institutions to have a system to report complaints to the state in which the student resides; and
- entities that oversee a state authorization reciprocity agreement must only include representation from state employees and members of the public.

Public Records Act.

The Public Records Act (PRA) requires state and local agencies to make their written records available to the public for inspection and copying upon request unless the information fits into a specific exemption in the PRA or as otherwise provided in law. Financial disclosures provided to the Council by degree-granting private vocational schools are not subject to public disclosure under the PRA.

Summary:

An exemption from accreditation granted by the Council may not suspend, supersede, or reduce student consumer protections or the authority of the Council to investigate and enforce standards for operation. The Council is responsible for maintaining and developing reciprocity agreements with other state or multistate entities.

Beginning July 1, 2028, interstate reciprocity agreements developed by the Council:

- may not suspend, supersede, or reduce student consumer protections or the authority of the Council to investigate and enforce standards for operation;
- must maintain the authority and capabilities of the Council to investigate complaints of Washington students for distance, online, or other degree programs;
- must not reduce surety bond requirements for institutions adopted by the Council; and
- must ensure disclosure of any investigation, suspension, or provisional status relating to either financial instability, eligibility for participation in federal or state financial aid programs, or accreditation requirements to the Council, students of the institution, or prospective students.

Financial disclosures are exempt under the PRA to the extent that they are exempt from disclosure by the federal government and are not relied on as part of federal or state determinations relating to:

- eligibility of students enrolled in the institution to receive federal or state financial aid;
- the level of surety or bond required to be maintained by the institution; or
- resolving any investigation relating to the ability of the institution to offer educational

programs authorized by the Council or Workforce Training and Education Coordinating Board.

Requirements for surety bonds established by the Council may not be reduced based on whether an institution is headquartered or incorporated outside of Washington. Authorization agreements with other states must provide for at least the amount and security for surety applicable to an institution in Washington.

Complaints may also be filed with the Council for loss or injury due to misrepresentation of educational programs, accreditation, support for or statistics relating to job placement, or measurements of student debts and earnings.

Non-public, for-profit online institutions of higher education offering distance learning and serving students in Washington must prominently disclose students' rights under state law and how students may contact the Council on appropriate websites and promotional materials. The manner of disclosure must be determined by the Council.

If a Washington resident student enrolled at an out-of-state institution that is authorized by Washington files a complaint, the Council may not delegate or agree to defer investigation or resolution of that complaint to the out-of-state institution or the state.

Language providing that participating in an interstate reciprocity agreement does not delegate authority for compliance with minimum standards or authority to respond to student complaints is removed.

The Council may use its authority to waive state requirements for institutions participating in interstate reciprocity agreements for online or distance education if:

- such waivers are consistent with federal regulations and requirements for state authorization, including preserving Washington's authorization to administer federal financial aid programs; and
- the Council finds that the institutions' authorizations are consistent with the Council's policies for protection of Washington resident student consumers.

If NC-SARA has not amended its bylaws to provide student consumer protections equivalent to those established in the act by July 1, 2028, then the Council must review Washington's continued participation in SARAs and may initiate alternative agreements with individual states or groups of states. If the Council determines that the bylaws do not establish equivalent student consumer protections, then the Council must establish a process for administering interstate reciprocity agreements outside of SARAs by July 1, 2028.

By December 31, 2026, the Council must report to the Legislature on whether NC-SARA has amended its bylaws, or is likely to amend its bylaws, by July 1, 2028.

Votes on Final Passage:

House	94	0
Senate	48	0

Effective: July 27, 2025