
Higher Education Committee

HB 1439

Brief Description: Regulating the institutions of higher education, including for-profit institutions and private vocational schools, to protect students from unfair business practices.

Sponsors: Representatives Pollet, Haler, Tarleton, Fey, Sells, Orwall, Ryu, Stanford and Dolan.

Brief Summary of Bill

- Creates the Office of the Ombuds within the Washington Student Achievement Council to serve students of for-profit degree-granting institutions and private vocational schools and to provide mediation.
- Creates regulatory provisions for for-profit degree-granting institutions and private vocational schools regarding, among other things: (1) financial conflicts of interest; (2) unfair business practices; (3) misleading or deceptive testimony and advertising; (4) job placement services; and (5) notices to students, including notices about student loans.

Hearing Date: 2/1/17

Staff: Trudes Tango (786-7384).

Background:

For-profit post secondary institutions are regulated by federal and state laws. The two agencies in Washington that regulate most for-profit schools are: (1) the Washington Student Achievement Council (WSAC), which regulates degree-granting institutions; and (2) the Workforce Training and Education Coordinating Board (WTB), which regulates private vocational schools.

For-profit schools must be authorized or licensed by the appropriate regulating agency, meet certain minimum standards regarding academic standards and financial stability, and not engage in unfair or deceptive practices set forth in the statutes. For private vocational schools, it is an unfair practice to, among other things, provide prospective students with information that has a tendency to mislead or deceive regarding the school's current practices.

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

The WSAC and the WTB have authority to investigate student complaints and issue civil penalties. A person or entity that violates the regulations is subject to a civil penalty of not more than \$100 for each violation. Each day a violation occurs constitutes a separate violation. A violation of the regulations constitutes an unfair or deceptive practice in violation of the Consumer Protection Act (CPA). Under the CPA, an aggrieved person may bring a private cause of action for damages or the Attorney General's Office (AG) may take action.

Summary of Bill:

Various regulatory provisions are created that apply to both for-profit degree granting institutions and private vocational schools, and an Office of the Ombuds is created.

Office of the Ombuds.

The Office of the Ombuds (Ombuds) is created within the WSAC to serve students of for-profit degree-granting institutions and private vocational schools. The WSAC, in coordination with the WTB, must appoint the Ombuds. The Ombuds must assist past, currently enrolled, and future students on understanding their rights and must offer mediation between students and schools. To ensure independence, the Ombuds must report to the Director of the WSAC, and may not be removed by the Director without the Director first notifying the full WSAC. The Office of the Ombuds must be created no later than September 1, 2018.

Unfair practices and civil penalties for violations.

The WSAC may deny, revoke, or suspend the authorization of any for-profit degree-granting institution that has engaged in a substantial number of, or in significant, unfair business practices. For-profit degree-granting institutions may not: (1) provide prospective students with testimonial or other information that is misleading or deceptive about employment opportunities, career placement rates, probable earnings, the likelihood of obtaining financial aid or low-interest loans, or the ability to repay loans; (2) fail to continue job placement services promised if the institution is sold, closed, or reduces programs; (3) place a student in a short-term job not relevant to the student's training in order to meet reporting requirements; and (4) use any official United States military logo in advertising or promotional materials.

For private vocational schools, it is an unfair practice to provide students with testimonials or other information that a reasonable person would find likely to mislead or deceive regarding, among other things, rates of completion, post graduation employment programs, and post graduation median hourly or annual earnings, that are inconsistent with the data posted by the WTB on its Career Bridge website or alternative data the WTB requires.

For purposes of the \$100-per-violation civil penalty, each student that is injured by an unfair business practice is considered a separate violation. It is made explicit that engaging in an unfair business practice constitutes a violation of the CPA.

Restrictions related to financial interests and stability.

For-profit degree-granting institutions and private vocational schools may not engage in any practice regarding the sale of, or inducing of students to obtain, specific consumer student loan products to fund education that financially benefits any person or entity having an ownership

interest in the school, unless the institution demonstrates that the student has exhausted all federal aid options and has been denied non-institutional private commercial loan products.

This prohibition applies to institutions that have at least 150 students or more enrolled in the state in any given year or that have been operating in the state for less than two years.

Data reporting.

If a for-profit degree-granting institution presents data about its completion rates, employment rates, loan or indebtedness metrics, or its graduates' median hourly and annual earnings, the presentation of the data must be consistent with the methodology and procedures used by schools presenting data on the WTB's Career Bridge website, as determined by the WSAC. Similar requirements are imposed on private vocational schools presenting their data.

Notice requirements.

For-profit degree-granting institutions and private vocational schools must provide notice to students about a student's state and federal rights, including the complaint procedures available to students. The regulating agency must establish the form and content of the notice.

In addition, for-profit degree-granting institutions and private vocational schools that receive education loan information for an enrolled student must provide the student with a notification about the education loans the institution or school has certified. The notification must include, among other things, an estimate of the total amount of education loans taken out by the student; potential total payoff amount or a range of the total payoff amount; monthly repayment amounts based on the federal loan repayment plan borrowers are automatically enrolled in; and percentage of the federal direct loan borrowing limit the student has reached. The notification must also provide other information, such as: the differences between federal and private student loans, including the availability of income-based repayment options for federal loans and federal or state resources for student loan borrowers.

Provisions are established regarding when the notices must be provided and in what form. Notices are required each time a student is offered a new financial aid package including loans. The institutions and schools do not incur liability for any good faith representations made in the notifications.

The regulating agencies must develop a form for reporting compliance by January 1, 2018, and the institutions and schools must report compliance with the agency at least annually beginning January 1, 2019. Beginning December 1, 2019, and biannually thereafter until December 25, 2025, the regulating agencies must submit a report to the Legislature regarding compliance.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.