
College & Workforce Development Committee

HB 1124

Brief Description: Regulating degree-granting institutions, private vocational schools, and other for-profit schools.

Sponsors: Representatives Pollet and Frame.

Brief Summary of Bill

- Requires the Washington Student Achievement Council (WSAC), the Workforce Training and Education Coordinating Board (WTB), and the Department of Licensing (DOL) to adopt rules requiring degree-granting institutions and private vocational schools to meet gainful employment standards.
- Creates an Ombuds Office to provide advocacy and support to students of for-profit degree-granting institutions and private vocational schools, and to track complaints and work with the regulatory agencies.
- Extends the timeframe in which the WSAC and the DOL has to reach sufficient fund thresholds in their Tuition Recovery Trust Funds, and allows the funds to be used to reimburse students for damages caused by school violations.

Hearing Date: 1/16/19

Staff: Trudes Tango (786-7384).

Background:

Regulation of Private Degree Granting Institutions and Vocational Schools.

Private degree-granting institutions and vocational schools are regulated by federal and state laws. The two state agencies that regulate most of these 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. The Department of Licensing (DOL) regulates and licenses cosmetology

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.

schools. Certain degree-granting institutions, such as the public universities and private institutions that meet specific criteria from the WSAC, are exempt from the regulatory statutes.

All three agencies require the schools they regulate to, among other things: be authorized or licensed; meet certain minimum academic standards; not engage in unfair or deceptive practices; and demonstrate financial stability. The WSAC and the WTB may investigate student complaints and issue civil penalties.

Surety Bonds and Tuition Recovery Trust Funds.

The WTB administers a tuition recovery trust fund (TRTF) for the purposes of settling student complaints and claims related to school or program closures. The WSAC and the DOL require their schools to have surety bonds or other security in lieu of a bond.

Legislation enacted last year (2ESHB 1439) requires the WSAC and the DOL to establish and administer their own TRTFs, funded by the schools, to provide relief to students in the event of a school closure. The agencies must determine an amount that would be sufficient in the trust fund and adopt a schedule for collecting fees to reach the amount determined within five years from the enactment of the legislation.

Student Complaint Portal.

The legislation also requires the WSAC, the WTB, and the DOL to collaborate to create a single portal to receive student complaints. The staff of the portal must refer complaints to the appropriate agency, work as a liaison to assist in resolving complaints, and report to the Legislature annually the number of complaints received.

Gainful Employment.

Under federal rules governing for-profit schools, a school is eligible to participate in the federal financial aid program (Title IV) only if it can demonstrate that its program prepares the student for "gainful employment in a recognized occupation." Gainful employment rules look at the debt-to-earnings ratio of students who have completed the program. The federal Department of Education is rescinding the gainful employment rule, as written, and is engaged in a stakeholder process for new rulemaking.

Summary of Bill:

Tuition Recovery Trust Fund.

The WSAC and the DOL have seven years, rather than five years, to achieve sufficient amounts in their TRTFs. The WSAC may eliminate the surety bond requirement for any degree-granting institution if the threshold amount for the TRTF has been met and the WSAC determines that students of the degree-granting institution would be adequately protected without a surety bond.

The WSAC and the DOL TRTF funds may be used to address program closures, loss of accreditation, or other actions or events for which students may file complaints against schools. Relief for students may include direct damages if appropriate.

The WSAC and the DOL may require a student to reimburse the TRTF if the student received relief through a source other than the TRTF, such as through a loan forgiveness program or an

award of damages under a Consumer Protection Act cause of action. A technical correction is made to codify the TRTFs in the appropriate statutes for the state treasurer.

Gainful Employment.

The WSAC, the WTB, and the DOL must require that programs offered by the institutions and schools prepare students for gainful employment in a recognized occupation.

Gainful employment requirements must be based on debt-to-earnings rates demonstrating whether students completing the program will likely be able to reasonably repay student loan debts incurred for attending the institution based on earnings from employment in the field for which they are seeking a degree, certification, or training.

The regulatory agency must determine acceptable debt-to-earnings rates for programs and institutions for the purposes of determining whether the program or institution continues to be eligible to participate in the state's financial aid programs or to operate in the state.

The WSAC and the DOL must consult with the WTB in establishing debt-to-earnings rates, including methods of calculation and types of student-level data that is needed.

The agencies must establish the minimum threshold of students required in a program cohort to have a meaningful debt-to-earnings rate for a particular program or institution. If meaningful debt-to-earnings rates cannot be established, the WTB must evaluate student-level data and other information to assess earnings in relation to cost of attendance.

The agency must require institutions or schools to collect student-level data, including the student's social security number, birth date, and financial aid awards. Institutions and schools must make that data available to the WTB for analysis and calculation.

By July 1, 2021, and every year thereafter, the institutions and schools must publish the debt-to-earnings rates of its programs on its web sites. The WTB must also publish that information on its web site.

Noncompliance with the agency's gainful employment requirements is a violation of the law and an institution or school is subject to denial, suspension, or revocation of its authority to operate.

Ombuds Office.

An Ombuds office is created for purposes of providing advocacy, support, and assistance to students of for-profit and formerly for-profit degree-granting institutions, private vocational schools, and other for-profit schools. The Ombuds office is housed within the WSAC, but must maintain independent authority to carry out its duties.

The Ombuds is appointed by the Governor, reports directly to the Governor, and holds office for a term of four years until reappointed or until a successor is appointed.

The Ombuds must:

- assist students in submitting complaints to the appropriate oversight agency and, when appropriate, be an advocate for students filing complaints;

- if there is no conflict when acting as an advocate for a particular student's complaint, provide consultation, information, or other assistance to the regulatory agencies, the Attorney General's Office (AGO), and any other agency investigating or working towards resolving a student's complaint;
- coordinate and share information with the AGO on claims alleging violations of the Consumer Protection Act, and track patterns of complaints and responses;
- coordinate with the oversight agencies on administering the complaint portal;
- track the status of complaints and collect data about the nature and volume of complaints and the timeline for complaint resolutions, and student satisfaction with the process;
- participate in meetings with students and agencies regarding school closures; and
- develop and maintain resources for students affected by school closures.

Beginning December 1, 2020, the Ombuds must submit a report every six months to the regulatory agencies. The report must contain, among other things: (a) the number of students who contacted the Ombuds in the prior six months; (b) the number of complaints for which the Ombuds provided assistance and advocacy and the outcome of the complaints; (c) any patterns the Ombuds identifies regarding the frequency and types of complaints per institution or school and per type of institution or school, and the responsiveness of the institution or school; and (d) any outstanding and unresolved concerns or recommendations by the Ombuds.

The Ombuds is not liable for the good faith performance of the Ombuds' duties.

The WSAC, the WTB, and the DOL must ensure the institutions and schools they regulate provide prominent and clear notice to students about the complaint portal and the Ombuds' office. The notice must contain the same information as the notices provided by the regulatory agencies regarding the portal web site, how to contact portal staff, how to file complaints, and how to contact the Ombuds' office.

Appropriation: None.

Fiscal Note: Requested on January 14, 2019.

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