

EHB 2164 - S COMM AMD

By Committee on Higher Education & Workforce Development

NOT CONSIDERED 03/07/2024

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

3 "Sec. 1. RCW 28B.85.020 and 2013 c 218 s 3 are each amended to
4 read as follows:

5 (1) The council:

6 (a) Shall adopt by rule, in accordance with chapter 34.05 RCW,
7 minimum standards for degree-granting institutions concerning
8 granting of degrees, quality of education, unfair business practices,
9 financial stability, and other necessary measures to protect citizens
10 of this state against substandard, fraudulent, or deceptive
11 practices. The rules shall require that an institution operating in
12 Washington:

13 (i) Be accredited;

14 (ii) Have applied for accreditation and such application is
15 pending before the accrediting agency;

16 (iii) Have been granted a waiver by the council waiving the
17 requirement of accreditation; or

18 (iv) Have been granted an exemption by the council from the
19 requirements of this subsection (1)(a), provided that any such
20 exemption shall not suspend, supersede, or reduce student consumer
21 protections or the authority of the council to investigate and
22 enforce provisions of this chapter;

23 (b) May investigate any entity the council reasonably believes to
24 be subject to the jurisdiction of this chapter. In connection with
25 the investigation, the council may administer oaths and affirmations,
26 issue subpoenas and compel attendance, take evidence, and require the
27 production of any books, papers, correspondence, memorandums, or
28 other records which the council deems relevant or material to the
29 investigation. The council, including its staff and any other
30 authorized persons, may conduct site inspections, the cost of which
31 shall be borne by the institution, and examine records of all
32 institutions subject to this chapter;

1 (c) (~~May negotiate and enter into~~) Is responsible for
2 maintaining and developing interstate reciprocity agreements with
3 other state or multistate entities if the agreements are consistent
4 with the purposes in this chapter as determined by the council, and
5 provided that the agreements:

6 (i) Do not suspend, supersede, or reduce student consumer
7 protections or the authority of the council to investigate and
8 enforce provisions of this chapter;

9 (ii) Maintain the authority and capabilities of the council to
10 investigate complaints of students who are residents of, or domiciled
11 in, Washington in regard to compliance provisions of this chapter for
12 distance, online, or other degree programs;

13 (iii) Do not reduce surety or bond requirements for institutions
14 adopted by the council pursuant to this chapter; and

15 (iv) Ensure disclosure of any investigation, suspension, or
16 provisional status relating to either financial instability,
17 eligibility for participation in federal or state financial aid
18 programs, or accreditation requirements to the council and students
19 of the institutions, or prospective students, residing in Washington;

20 (d) May enter into agreements with degree-granting institutions
21 of higher education based in this state, that are otherwise exempt
22 under the provisions of (~~subsection (1)~~)(a) of this (~~section~~)
23 subsection, for the purpose of ensuring consistent consumer
24 protection in interstate distance delivery of higher education;

25 (e) Shall develop an interagency agreement with the workforce
26 training and education coordinating board to regulate degree-granting
27 private vocational schools with respect to degree and nondegree
28 programs; and

29 (f) Shall develop and disseminate information to the public about
30 entities that sell or award degrees without requiring appropriate
31 academic achievement at the postsecondary level, including but not
32 limited to, a description of the substandard and potentially
33 fraudulent practices of these entities, and advice about how the
34 public can recognize and avoid the entities. To the extent feasible,
35 the information shall include links to additional resources that may
36 assist the public in identifying specific institutions offering
37 substandard or fraudulent degree programs.

38 (2) Financial disclosures provided to the council by degree-
39 granting private vocational schools are not subject to public
40 disclosure under chapter 42.56 RCW to the extent that such records

1 are exempt from disclosure by the federal government and are not
2 relied on as part of federal or state determinations relating to (a)
3 eligibility of students enrolled in the institution to receive
4 federal or state financial aid; (b) the level of surety or bond
5 required to be maintained by the institution; or (c) resolving any
6 investigation relating to the ability of the institution to offer
7 educational programs authorized by the council or workforce training
8 and education coordinating board.

9 (3) For purposes of this section, "prospective student" includes
10 any resident who has submitted an application, all or in part, for
11 admission or acceptance to a program of an institution, and anyone
12 who the institution is soliciting to enroll.

13 **Sec. 2.** RCW 28B.85.070 and 2012 c 229 s 548 are each amended to
14 read as follows:

15 (1) The council may require any degree-granting institution to
16 have on file with the council an approved surety bond or other
17 security in lieu of a bond in an amount determined by the council.

18 (2) In lieu of a surety bond, an institution may deposit with the
19 council a cash deposit or other negotiable security acceptable to the
20 council. The security deposited with the council in lieu of the
21 surety bond shall be returned to the institution one year after the
22 institution's authorization has expired or been revoked if legal
23 action has not been instituted against the institution or the
24 security deposit at the expiration of the year. The obligations and
25 remedies relating to surety bonds authorized by this section,
26 including but not limited to the settlement of claims procedure in
27 subsection (5) of this section, shall apply to deposits filed with
28 the council, as applicable.

29 (3) Each bond shall:

30 (a) Be executed by the institution as principal and by a
31 corporate surety licensed to do business in the state;

32 (b) Be payable to the state for the benefit and protection of any
33 student or enrollee of an institution, or, in the case of a minor,
34 his or her parents or guardian;

35 (c) Be conditioned on compliance with all provisions of this
36 chapter and the council's rules adopted under this chapter;

37 (d) Require the surety to give written notice to the council at
38 least thirty-five days before cancellation of the bond; and

1 (e) Remain in effect for one year following the effective date of
2 its cancellation or termination as to any obligation occurring on or
3 before the effective date of cancellation or termination.

4 (4) Upon receiving notice of a bond cancellation, the council
5 shall notify the institution that the authorization will be suspended
6 on the effective date of the bond cancellation unless the institution
7 files with the council another approved surety bond or other
8 security. The council may suspend or revoke the authorization at an
9 earlier date if it has reason to believe that such action will
10 prevent students from losing their tuition or fees.

11 (5) If a complaint is filed under RCW 28B.85.090(1) against an
12 institution, the council may file a claim against the surety and
13 settle claims against the surety by following the procedure in this
14 subsection.

15 (a) The council shall attempt to notify all potential claimants.
16 If the absence of records or other circumstances makes it impossible
17 or unreasonable for the council to ascertain the names and addresses
18 of all the claimants, the council after exerting due diligence and
19 making reasonable inquiry to secure that information from all
20 reasonable and available sources, may make a demand on a bond on the
21 basis of information in the council's possession. The council is not
22 liable or responsible for claims or the handling of claims that may
23 subsequently appear or be discovered.

24 (b) Thirty days after notification, if a claimant fails, refuses,
25 or neglects to file with the council a verified claim, the council
26 shall be relieved of further duty or action under this chapter on
27 behalf of the claimant.

28 (c) After reviewing the claims, the council may make demands upon
29 the bond on behalf of those claimants whose claims have been filed.
30 The council may settle or compromise the claims with the surety and
31 may execute and deliver a release and discharge of the bond.

32 (d) If the surety refuses to pay the demand, the council may
33 bring an action on the bond in behalf of the claimants. If an action
34 is commenced on the bond, the council may require a new bond to be
35 filed.

36 (e) Within ten days after a recovery on a bond or other posted
37 security has occurred, the institution shall file a new bond or
38 otherwise restore its security on file to the required amount.

39 (6) The liability of the surety shall not exceed the amount of
40 the bond.

1 (7) The requirements for surety bonds established by the council
2 may not be reduced based on whether an institution is headquartered,
3 incorporated, or domiciled outside of Washington state. The council
4 shall ensure that any authorization agreement with other states
5 provides for at least the amount and security for surety applicable
6 to an institution that is headquartered, incorporated, domiciled, or
7 has a physical presence in Washington state.

8 **Sec. 3.** RCW 28B.85.090 and 2018 c 203 s 3 are each amended to
9 read as follows:

10 (1) Complaints may be filed with the council under this chapter
11 by a person claiming loss of tuition or fees ~~((as a result of an))~~;
12 other loss or injury due to misrepresentation of educational
13 programs, accreditation, support for or statistics relating to job
14 placement, or measurements of student debts and earnings; and other
15 unfair business practices. The complaint shall set forth the alleged
16 violation and shall contain information required by the council. A
17 complaint may also be filed with the council by an authorized staff
18 member of the council or by the attorney general.

19 (2) The council shall investigate any complaint under this
20 section and may attempt to bring about a settlement. The council may
21 hold a hearing pursuant to the Administrative Procedure Act, chapter
22 34.05 RCW, in order to determine whether a violation has occurred. If
23 the council prevails, the degree-granting institution shall pay the
24 costs of the administrative hearing.

25 (3) If, after the hearing, the council finds that the institution
26 or its agent engaged in or is engaging in any unfair business
27 practice, the council shall issue and cause to be served upon the
28 violator an order requiring the violator to cease and desist from the
29 act or practice and may impose the penalties under RCW 28B.85.095 and
30 28B.85.100. If the council finds that the complainant has suffered
31 loss as a result of the act or practice, the council may order full
32 or partial restitution for the loss. The complainant is not bound by
33 the council's determination of restitution and may pursue any other
34 legal remedy.

35 (4) All institutions of higher education that offer online
36 distance learning, and all private and not-for-profit institutions of
37 higher education with physical campuses that serve students in
38 Washington state, shall prominently disclose on all websites,
39 electronic enrollment and registration applications, promotional

1 materials distributed and made available to students in Washington
2 state, including through digital or social media, and students'
3 rights under state law as well as how students may contact the
4 council if they wish to file a complaint. The manner of disclosure
5 shall be determined by the council. The council may not delegate or
6 otherwise agree to defer investigation or resolution of complaints
7 filed by students who are residents of Washington state and enrolled
8 in institutions of higher education authorized by Washington state to
9 another state where the institution of higher education is
10 headquartered or incorporated.

11 **Sec. 4.** RCW 28B.85.095 and 2018 c 203 s 4 are each amended to
12 read as follows:

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

16 (b) The council may not delegate to any other state its authority
17 to oversee and enforce compliance with this chapter or its authority
18 to respond to complaints by students in this state, regardless of
19 whether the institution is authorized by, or has its home in, another
20 state. (~~Under RCW 28B.85.020(1)(c), participation in interstate~~
21 ~~reciprocity agreements consistent with the purposes of this chapter~~
22 ~~does not delegate authority for compliance with this chapter or~~
23 ~~authority to respond to student complaints.))~~

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

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

35 (b) Use any official United States military logo in advertising
36 or promotional materials; or

37 (c) Violate the provision of RCW 28B.85.175(1)(b) regarding the
38 sale of, or inducing of students to obtain, specific consumer student
39 loan products.

1 NEW SECTION. **Sec. 5.** The council may utilize its authority to
2 waive state requirements for institutions participating in interstate
3 reciprocity agreements for online or distance education if:

4 (1) Such waivers are consistent with federal regulations and
5 requirements for state authorization pursuant to 34 C.F.R. Sec. 600.2
6 and 600.9, including preserving Washington's authorization to
7 administer federal financial aid programs; and

8 (2) The council finds that the institutions' authorizations are
9 consistent with the council's policies for protection of Washington
10 resident student consumers."

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11 On page 1, line 1 of the title, after "protections;" strike the
12 remainder of the title and insert "amending RCW 28B.85.020,
13 28B.85.070, 28B.85.090, and 28B.85.095; and creating a new section."

EFFECT: (1) Removes the ability of the Student Achievement
Council to enter into interstate reciprocity agreements with other
state or multistate entities.

(2) Specifies that the Student Achievement Council is responsible
for maintaining and developing reciprocity agreements with other
state or multistate entities.

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