
HOUSE BILL 2164

State of Washington

68th Legislature

2024 Regular Session

By Representatives Pollet, Slatter, Leavitt, Reed, and Reeves

Prefiled 01/05/24. Read first time 01/08/24. Referred to Committee on Postsecondary Education & Workforce.

1 AN ACT Relating to postsecondary education consumer protections;
2 and amending RCW 28B.85.020, 28B.85.070, 28B.85.090, and 28B.85.095.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

6 (1) The council:

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

14 (i) Be accredited;

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

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

19 (iv) Have been granted an exemption by the council from the
20 requirements of this subsection (1)(a), provided that any such
21 exemption shall not suspend, supersede, or reduce student consumer

1 protections or the authority of the council to investigate and
2 enforce provisions of this chapter;

3 (b) May investigate any entity the council reasonably believes to
4 be subject to the jurisdiction of this chapter. In connection with
5 the investigation, the council may administer oaths and affirmations,
6 issue subpoenas and compel attendance, take evidence, and require the
7 production of any books, papers, correspondence, memorandums, or
8 other records which the council deems relevant or material to the
9 investigation. The council, including its staff and any other
10 authorized persons, may conduct site inspections, the cost of which
11 shall be borne by the institution, and examine records of all
12 institutions subject to this chapter;

13 (c) May negotiate and enter into interstate reciprocity
14 agreements with other state or multistate entities if the agreements
15 are consistent with the purposes in this chapter as determined by the
16 council, and provided that the agreements:

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

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

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

26 (iv) Ensure disclosure of any investigation, suspension, or
27 provisional status relating to either financial instability,
28 eligibility for participation in federal or state financial aid
29 programs, or accreditation requirements to the council and students
30 of the institutions, or prospective students, residing in Washington;

31 (d) May enter into agreements with degree-granting institutions
32 of higher education based in this state, that are otherwise exempt
33 under the provisions of ~~((subsection—(1))~~(a) of this ~~((section))~~
34 subsection, for the purpose of ensuring consistent consumer
35 protection in interstate distance delivery of higher education;

36 (e) Shall develop an interagency agreement with the workforce
37 training and education coordinating board to regulate degree-granting
38 private vocational schools with respect to degree and nondegree
39 programs; and

1 (f) Shall develop and disseminate information to the public about
2 entities that sell or award degrees without requiring appropriate
3 academic achievement at the postsecondary level, including but not
4 limited to, a description of the substandard and potentially
5 fraudulent practices of these entities, and advice about how the
6 public can recognize and avoid the entities. To the extent feasible,
7 the information shall include links to additional resources that may
8 assist the public in identifying specific institutions offering
9 substandard or fraudulent degree programs.

10 (2) Financial disclosures provided to the council by degree-
11 granting private vocational schools are not subject to public
12 disclosure under chapter 42.56 RCW to the extent that such records
13 are exempt from disclosure by the federal government and are not
14 relied on as part of federal or state determinations relating to (a)
15 eligibility of students enrolled in the institution to receive
16 federal or state financial aid; (b) the level of surety or bond
17 required to be maintained by the institution; or (c) resolving any
18 investigation relating to the ability of the institution to offer
19 educational programs authorized by the council or workforce training
20 and education coordinating board.

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

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

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

30 (2) In lieu of a surety bond, an institution may deposit with the
31 council a cash deposit or other negotiable security acceptable to the
32 council. The security deposited with the council in lieu of the
33 surety bond shall be returned to the institution one year after the
34 institution's authorization has expired or been revoked if legal
35 action has not been instituted against the institution or the
36 security deposit at the expiration of the year. The obligations and
37 remedies relating to surety bonds authorized by this section,
38 including but not limited to the settlement of claims procedure in

1 subsection (5) of this section, shall apply to deposits filed with
2 the council, as applicable.

3 (3) Each bond shall:

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

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

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

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

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

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

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

27 (a) The council shall attempt to notify all potential claimants.
28 If the absence of records or other circumstances makes it impossible
29 or unreasonable for the council to ascertain the names and addresses
30 of all the claimants, the council after exerting due diligence and
31 making reasonable inquiry to secure that information from all
32 reasonable and available sources, may make a demand on a bond on the
33 basis of information in the council's possession. The council is not
34 liable or responsible for claims or the handling of claims that may
35 subsequently appear or be discovered.

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

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

5 (d) If the surety refuses to pay the demand, the council may
6 bring an action on the bond in behalf of the claimants. If an action
7 is commenced on the bond, the council may require a new bond to be
8 filed.

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

12 (6) The liability of the surety shall not exceed the amount of
13 the bond.

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

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

23 (1) Complaints may be filed with the council under this chapter
24 by a person claiming loss of tuition or fees ~~((as a result of an))~~;
25 other loss or injury due to misrepresentation of educational
26 programs, accreditation, support for or statistics relating to job
27 placement, or measurements of student debts and earnings; and other
28 unfair business practices. The complaint shall set forth the alleged
29 violation and shall contain information required by the council. A
30 complaint may also be filed with the council by an authorized staff
31 member of the council or by the attorney general.

32 (2) The council shall investigate any complaint under this
33 section and may attempt to bring about a settlement. The council may
34 hold a hearing pursuant to the Administrative Procedure Act, chapter
35 34.05 RCW, in order to determine whether a violation has occurred. If
36 the council prevails, the degree-granting institution shall pay the
37 costs of the administrative hearing.

38 (3) If, after the hearing, the council finds that the institution
39 or its agent engaged in or is engaging in any unfair business

1 practice, the council shall issue and cause to be served upon the
2 violator an order requiring the violator to cease and desist from the
3 act or practice and may impose the penalties under RCW 28B.85.095 and
4 28B.85.100. If the council finds that the complainant has suffered
5 loss as a result of the act or practice, the council may order full
6 or partial restitution for the loss. The complainant is not bound by
7 the council's determination of restitution and may pursue any other
8 legal remedy.

9 (4) All institutions of higher education that offer online
10 distance learning, and all private and not-for-profit institutions of
11 higher education with physical campuses that serve students in
12 Washington state, shall prominently disclose on all websites,
13 electronic enrollment and registration applications, promotional
14 materials distributed and made available to students in Washington
15 state, including through digital or social media, and students'
16 rights under state law as well as how students may contact the
17 council if they wish to file a complaint. The manner of disclosure
18 shall be determined by the council. The council may not delegate or
19 otherwise agree to defer investigation or resolution of complaints
20 filed by students who are residents of Washington state and enrolled
21 in institutions of higher education authorized by Washington state to
22 another state where the institution of higher education is
23 headquartered or incorporated.

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

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

29 (b) The council may not delegate to any other state its authority
30 to oversee and enforce compliance with this chapter or its authority
31 to respond to complaints by students in this state, regardless of
32 whether the institution is authorized by, or has its home in, another
33 state. ~~((Under RCW 28B.85.020(1)(c), participation in interstate~~
34 ~~reciprocity agreements consistent with the purposes of this chapter~~
35 ~~does not delegate authority for compliance with this chapter or~~
36 ~~authority to respond to student complaints.))~~

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

1 (a) Provide prospective students with any testimonial,
2 endorsement, or other information that a reasonable person would find
3 was likely to mislead or deceive prospective students or the public
4 regarding current practices of the school, current conditions for
5 employment opportunities, postgraduation employment by industry, or
6 probable earnings in the occupation for which the education was
7 designed, the likelihood of obtaining financial aid or low-interest
8 loans for tuition, or the ability of graduates to repay loans;

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

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

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