

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 4409

STATE OF NEW JERSEY
219th LEGISLATURE

ADOPTED OCTOBER 8, 2020

Sponsored by:

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

SYNOPSIS

Establishes requirements for closures of private career schools and institutions of higher education, modifies review process of new academic programs, and requires approval of branch campuses.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Higher Education Committee.



1 AN ACT concerning postsecondary education, amending various
 2 parts of the statutory law, and supplementing Title 18A of the
 3 New Jersey Statutes and P.L.1989, c.293 (C.34:15C-1 et seq.).
 4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 6 *of New Jersey:*
 7

8 1. Section 8 of P.L.1994, c.48 (C.18A:3B-8) is amended to read
 9 as follows:

10 8. The council shall have the responsibility, consistent with
 11 State and federal law, to:

12 a. provide public information and research on higher education
 13 issues;

14 b. review and make recommendations to the **【commission】**
 15 Secretary of Higher Education concerning proposals for new
 16 programs that exceed the programmatic mission of an institution or
 17 that change the programmatic mission of an institution;

18 c. review **【and comment on】** proposals for new programs that
 19 **【demand significant added resources or raise significant issues of**
 20 **duplication but】** do not exceed the programmatic mission of the
 21 institution or require a change in the programmatic mission,
 22 according to standards established by the secretary through
 23 regulations promulgated pursuant to the “Administrative Procedure
 24 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), for the following:

25 (1) sufficient academic quality;

26 (2) sufficient evidence of labor market demand for the program;

27 (3) duplication with comparable programs of study in the State;

28 and

29 (4) whether the proposed new program will require significant
 30 additional State resources.

31 If the council determines according to the review standards set by
 32 the secretary that a proposed new program **【is】** may be of
 33 insufficient academic quality, may lack sufficient evidence of labor
 34 market demand, may be duplicative of comparable programs of
 35 study, or may be **【or unduly duplicative】** to the
 36 State, the council shall refer that proposal to the **【commission】**
 37 secretary for review【; however, unless the commission disapproves
 38 of that program within 60 days of its referral, the program shall be
 39 deemed approved】 pursuant to subsection f. of section 14 of
 40 P.L.1994, c.48 (C.18A:3B-14);

41 d. encourage the formation of regional or other alliances among
 42 institutions including interinstitutional transfers, program
 43 articulation, cooperative programs and shared resources and
 44 develop criteria for "full faith and credit" transfer agreements
 45 between county colleges and other institutions of higher education.

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 The council shall also keep institutions apprised of the
2 discontinuance of programs at other institutions and each president
3 shall notify the council of any such action;
- 4 e. advise and assist the **【commission】** secretary in developing
5 and updating a plan for higher education in the State including, but
6 not limited to, the establishment of new institutions, closure of
7 existing institutions and consolidation of institutions;
- 8 f. provide policy recommendations on Statewide higher
9 education issues;
- 10 g. recommend to the Governor, Legislature and **【commission】**
11 secretary on policy and overall levels of funding for student aid
12 programs necessary to ensure accessibility to higher education;
- 13 h. transmit to the Governor, Legislature and **【commission】**
14 secretary a general budget policy statement regarding overall State
15 funding levels;
- 16 i. upon referral from the **【commission】** secretary pursuant to
17 this act provide recommendations concerning institutional licensure
18 and university status;
- 19 j. appoint subcommittees consisting of the presidents of the
20 institutions of the various higher education sectors to decide
21 matters, within the authority of the council. The presidents of the
22 independent institutions shall develop a unified request for State
23 support under chapter 72B of Title 18A of the New Jersey Statutes.
24 The presidents of the county college sector shall develop a unified
25 request for State support under chapter 64A of Title 18A of the New
26 Jersey Statutes; and
- 27 k. consult with the Higher Education Student Assistance
28 Authority concerning student assistance matters.
29 (cf: P.L.1999, c.46, s.29)
30
- 31 2. Section 14 of P.L.1994, c.48 (C.18A:3B-14) is amended to
32 read as follows:
- 33 14. The Secretary of Higher Education shall be responsible for:
- 34 a. Statewide planning for higher education including research
35 on higher education issues and the development of a comprehensive
36 master plan, including, but not limited to, the establishment of new
37 institutions, closure of existing institutions, and consolidation of
38 institutions, which plan shall be long-range in nature. Within 180
39 days of the effective date of P.L.2015, c.91 and, at a minimum,
40 every seven years thereafter, the secretary shall adopt a new
41 comprehensive master plan. The council may request the secretary
42 to conduct a study of a particular issue. The secretary may require
43 from institutions of higher education such reports or other
44 information as may be necessary to enable the secretary to perform
45 his duties;
- 46 b. advocacy on behalf of higher education including informing
47 the public of the needs and accomplishments of higher education in
48 New Jersey;

- 1 c. making recommendations to the Governor and Legislature
2 on higher education initiatives and incentive programs of Statewide
3 significance;
- 4 d. final administrative decisions over institutional licensure and
5 university status giving due consideration to the accreditation status
6 of the institution. The secretary shall furnish the Presidents' Council
7 with any pertinent information compiled on behalf of the subject
8 institution and the council shall then make recommendations to the
9 secretary concerning the licensure of the institution or university
10 status within sixty days of receipt of the information;
- 11 e. adopting a code of ethics applicable to institutions of higher
12 education;
- 13 f. final administrative decisions over new academic programs
14 that go beyond the programmatic mission of the institution and final
15 administrative decisions over a change in the programmatic mission
16 of an institution. In addition, within 60 days of referral of a
17 proposed new program **【determined to be unduly expensive or**
18 **duplicative】** by the council, the secretary may deny approval of
19 programs proposed by public institutions of higher education which
20 do not exceed the programmatic mission of the institution, but
21 which **【are】** may be of insufficient academic quality, may lack
22 sufficient evidence of labor market demand, may be duplicative of
23 comparable programs of study, or may be unduly expensive to the
24 State as determined by the New Jersey Presidents' Council **【to be**
25 unduly duplicative or expensive】 according to the review standards
26 set by the secretary, and review and comment on proposed new
27 programs submitted by independent institutions of higher education,
28 within 60 days of referral by the council;
- 29 g. reviewing requests for State support from the institutions in
30 relation to the mission of the institution and Statewide goals and
31 proposing a coordinated budget policy statement to the Governor
32 and Legislature;
- 33 h. communicating with the State Board of Education and
34 Commissioner of Education to advance public education at all
35 levels including articulation between the public schools and higher
36 education community;
- 37 i. applying for and accepting grants from the federal
38 government, or any agency thereof, or grants, gifts or other
39 contributions from any foundation, corporation, association or
40 individual, and complying with the terms, conditions and
41 limitations thereof, for the purpose of advancing higher education.
42 Any money so received may be expended by the secretary upon
43 warrant of the director of the Office of Management and Budget in
44 the Department of the Treasury on vouchers certified by the
45 secretary;
- 46 j. acting as the lead agent of communication with the federal
47 government concerning higher education issues, except that the
48 Higher Education Student Assistance Authority shall act, in

1 cooperation with the secretary, as the lead agency on issues of
2 student assistance;

3 k. exercising all of the powers and duties previously exercised
4 by the Board of Higher Education, the Department of Higher
5 Education, and the Chancellor of Higher Education, under the "New
6 Jersey Higher Education Building Construction Bond Act of 1971,"
7 P.L.1971, c.164, the "New Jersey Medical Education Facilities
8 Bond Act of 1977," P.L.1977, c.235, the "Jobs, Science and
9 Technology Bond Act of 1984," P.L.1984, c.99, the "Jobs,
10 Education and Competitiveness Bond Act of 1988," P.L.1988, c.78,
11 the "Higher Education Equipment Leasing Fund Act," P.L.1993,
12 c.136, and the "Higher Education Facilities Trust Fund Act,"
13 P.L.1993, c.375;

14 l. exercising any other power or responsibility necessary in
15 order to carry out the provisions of this act;

16 m. consulting with the Higher Education Student Assistance
17 Authority on student assistance matters;

18 n. advising and making recommendations for consideration to
19 the Governor and the governing board of a public research
20 university or a State college for members of that governing board
21 appointed by the Governor; and

22 o. examining and recommending to institutions of higher
23 education opportunities for joint purchasing and other joint
24 arrangements that would be advantageous to the institutions.

25 (cf: P.L. 2015, c.91, s.1)

26
27 3. Section 15 of P.L.1994, c.48 (C.18A:3B-15) is amended to
28 read as follows:

29 15. The **【commission】** secretary shall adopt rules and
30 regulations, pursuant to the "Administrative Procedure Act,"
31 P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to carry out the
32 provisions of this act. **【Regulations adopted by the State Board of**
33 **Higher Education pertaining to:**

34 a. licensing of institutions and university status;

35 b. outside employment for employees of public institutions and
36 State agencies and Code of Ethics;

37 c. residency requirements for tuition purposes;

38 d. personnel policies which affect the terms and conditions of
39 employment including classification and compensation plans
40 adopted pursuant thereto;

41 e. tenure and multi-year contracts;

42 f. rights and procedures in a reduction in force;

43 g. student trustee policies; and

44 h. regulations concerning early retirement programs and length
45 of the academic year shall continue with full force and effect under
46 the authority of the commission for a period of one year from the
47 effective date of this act or until amended, continued or repealed by

1 the commission pursuant to law.】

2 (cf: P.L.1994, c.48, s.15)

3

4 4. Section 20 of P.L.2009, c.308 (C.18A:3B-65) is amended to
5 read as follows:

6 20. a. Subject to the approval of the Secretary of Higher
7 Education, the governing board of a public research university or a
8 State college may establish a branch campus. The governing board
9 shall submit the plan for the branch campus to the secretary for
10 review and approval. The plan shall be developed and reviewed
11 according to standards established by the secretary through
12 regulations promulgated pursuant to the “Administrative Procedure
13 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

14 b. When the governing board 【of a public research university or
15 a State college】, after study and investigation, determines that it is
16 advisable for the institution to establish a branch campus or
17 additional location out-of-State or out-of-country that will serve at
18 least 【500】 100 students of the institution, the board shall 【submit】
19 include in the plan for the branch campus or additional location
20 submitted to the 【commission】 secretary 【for its review and
21 recommendations. The plan shall include】:

22 (1) a description of the higher educational needs of the country
23 or region in which the branch campus or additional location shall be
24 located;

25 (2) a description of the proposed branch campus or additional
26 location and its proposed programs and curriculum; 【and】

27 (3) an estimate of the cost of establishing and maintaining the
28 branch campus or additional location including the cost of any
29 planned acquisition or construction of facilities;

30 (4) a commitment that the branch campus or additional location
31 will comply with the provisions of P.L.1963, c.73 (C.47:1A-1 et
32 seq.), commonly known as the open public records act; and

33 (5) any other information or data deemed necessary by the
34 【commission】 secretary.

35 【b.】 c. In developing 【its】 a response to the plan, the
36 【commission】 secretary shall consider whether there is a need for
37 the institution to acquire a branch campus or additional location and
38 whether the institution has the financial capacity to support the
39 campus or additional location.

40 d. The secretary may approve the establishment of an out-of-
41 State or out-of-country branch campus or additional location if the
42 secretary determines that the branch campus or additional location:

43 (1) serves a compelling State interest;

44 (2) does not impose excessive costs or reputational risk to the
45 State;

46 (3) does not impose a risk to the security interests of the State or
47 federal government; and

1 (4) does not conflict with existing State or federal laws or
2 regulations.

3 In making the determination, the secretary may utilize the
4 assistance of an external consultant team, solicit comments from
5 interested parties including faculty and members of professional
6 staff not holding faculty rank at the public research university or
7 State college, and conduct a site visit at the proposed site of the
8 branch campus or additional location.

9 e. The governing board of a public research university or a State
10 college shall fix the salary of all faculty and members of the
11 professional staff not holding faculty rank performing services at a
12 branch campus or additional location, and the faculty and members
13 shall be paid and provided benefits in the same manner as all other
14 employees of the public research university or State college
15 performing services on behalf of the public research university or
16 State college within the State.

17 f. The cost for consultants utilized by the secretary and other
18 out-of-pocket expenses incurred by the secretary for branch campus
19 and related reviews shall be paid by the institution seeking to
20 establish a branch campus or additional location.

21 g. The secretary shall adopt rules and regulations, pursuant to
22 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
23 seq.), necessary to carry out the provisions of this section.

24 h. As used in this section:

25 "Additional location" means a location, other than a branch
26 campus, that is geographically apart from the main campus and at
27 which the institution offers at least 50 percent of an educational
28 program.

29 "Branch campus" means a physical facility located at a place
30 other than the institution's principal campus offering one or more
31 complete programs leading to a degree.

32 (cf: P.L.2009, c.308, s.20)

33

34 5. N.J.S.18A:68-3 is amended to read as follows:

35 18A:68-3. a. No corporation shall furnish instruction or
36 learning in the arts, sciences, or professions for the purposes of
37 admitting any person to the grade of a degree, or shall confer or
38 participate in conferring a degree, giving to any person a diploma of
39 graduation or of proficiency in a course of study, in learning, or in
40 scientific arts or methods, within this State, until it shall have filed
41 a certified copy of its certificate of incorporation with the
42 **【Commission on】** Secretary of Higher Education and obtained from
43 the **【commission】** secretary a license to carry on the business under
44 such rules as the **【commission】** secretary may prescribe.

45 b. The secretary shall prepare a fee schedule to cover the
46 reasonable administrative costs associated with licensing
47 procedures and submit the initial fee schedule to the Legislature for
48 review. The secretary shall subsequently adopt, pursuant to the

1 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
2 seq.), the fee schedule. Fees collected shall be deposited in the
3 State Treasury.

4 c. The cost for consultants utilized by the **【Commission on】**
5 Secretary of Higher Education and other out-of-pocket expenses
6 incurred by the **【commission】** secretary for licensure and related
7 reviews shall be paid by the institution seeking a license or license
8 renewal.

9 (cf: P.L.1999, c.46, s.44)

10
11 6. (New section) As used in sections 6 through 12 of P.L. , c.
12 (C.) (pending before the Legislature as this bill):

13 “Closure” means the cessation of operations by an institution of
14 higher education or a proprietary institution licensed to offer
15 academic degrees.

16 “Secretary” means the Secretary of Higher Education.

17 “Disorderly closure” means a closure that does not meet the
18 requirements of P.L. , c. (C.) (pending before the Legislature as
19 this bill).

20 "Eligible transfer institution" means an institution of higher
21 education or a proprietary institution licensed to offer academic
22 degrees that has been approved by the secretary pursuant to section
23 10 of P.L. , c. (C.) (pending before the Legislature as this bill).

24 "Institutional debt" means:

25 (1) the amount outstanding on any credit, including unpaid
26 charges, extended by or on behalf of an institution of higher
27 education or a proprietary institution licensed to offer academic
28 degrees that a student is obligated to repay, whether the amount has
29 been reduced to a judgment or the institution classifies it as a loan;
30 or

31 (2) a nonfederal loan or debt agreement that is issued expressly
32 for postsecondary education expenses and that is guaranteed by an
33 institution of higher education or a proprietary institution or a
34 private educational lender that is affiliated with an institution of
35 higher education or a proprietary institution.

36 "Institutional financial aid agreement" means any contract,
37 promissory note, part of an enrollment agreement, or other
38 agreement in which a student agrees to pay an institutional debt.

39 “Orderly closure” means a closure that meets the requirements of
40 P.L. , c. (C.) (pending before the Legislature as this bill).

41 “Student” means an individual enrolled at an institution of higher
42 education or a proprietary institution licensed to offer academic
43 degrees in New Jersey, or a New Jersey resident enrolled at an
44 institution of higher education or proprietary institution located
45 outside of this State.

46 “Teach-out agreement” means a written agreement between
47 institutions that provides for the equitable treatment of students and
48 a reasonable opportunity for students to complete their program of

1 study if an institution, or an institutional location that provides 100
2 percent of at least one program offered, ceases to operate before all
3 enrolled students have completed their program of study.

4 “Teach-out plan” means a written plan developed by the
5 institution that provides for the equitable treatment of students if an
6 institution, or an institutional location, ceases to operate before all
7 students have completed their program of study, and may include, if
8 required by the institution’s accrediting agency, a teach-out
9 agreement between institutions.

10
11 7. (New section) a. An independent institution of higher
12 education and a proprietary institution licensed to offer academic
13 degrees shall immediately notify the secretary of any known
14 financial liabilities or risks that are reasonably likely to result in the
15 imminent closure of the institution or otherwise negatively affect
16 the institution’s ability to fulfill its obligations to current and
17 admitted students.

18 b. All independent institutions and proprietary institutions
19 licensed to offer academic degrees shall submit an annual fiscal
20 monitoring report to the secretary according to a schedule
21 established by the secretary and in a format developed by the
22 secretary.

23 c. The secretary shall establish a process to annually assess each
24 independent institution’s and proprietary institution’s financial
25 information to identify whether an institution is at risk of imminent
26 closure. The assessment shall be based on a review of information
27 received through the annual fiscal monitoring report. In addition to
28 the annual report, the secretary may also conduct additional
29 assessments at the secretary’s discretion to identify whether an
30 institution is at risk of imminent closure.

31 d. If the secretary determines there is a risk of imminent closure,
32 the determination and a summary of the basis for the determination
33 shall be provided to the institution. Upon receipt of the
34 determination and summary the institution shall immediately:

35 (1) notify the secretary of any known liabilities, risks, or
36 financial issues;

37 (2) provide to the secretary any information necessary to
38 accurately and fairly determine the institution’s financial status and
39 likelihood of imminent closure and to monitor its condition;

40 (3) prepare and submit to the secretary a contingency plan for
41 closure, which shall include:

42 (a) a process to notify relevant stakeholders, as determined by
43 the secretary including, but not limited to, enrolled students,
44 candidates who have submitted applications, recent graduates,
45 faculty, staff, and host communities;

46 (b) arrangements for the continued education of currently
47 enrolled students via teach-out agreement or other practical
48 solution;

1 (c) a plan for the transfer to and long-term maintenance of
2 records, particularly student academic records, by a third-party if
3 the institution closes;

4 (d) information about the rights and responsibilities of student
5 loan borrowers;

6 (e) information about the institution's financial condition,
7 accreditation status, and any outstanding compliance issues
8 regarding federal and State student aid programs; and

9 (f) confirmation that the institution has obtained either a surety
10 bond or letter of credit to refund student enrollment deposits and for
11 the cost to maintain student records by a third-party.

12 e. Upon a finding by the secretary that an institution has failed to
13 comply with the requirements of this section, the secretary shall
14 have the authority to order:

15 (1) a fine not to exceed \$1,000 per day of non-compliance with
16 the requirements of this section;

17 (2) the suspension of any State funding designated for the
18 institution; and

19 (3) the suspension or revocation of any degree-granting
20 authority previously conferred on the institution.

21 f. Any information submitted to, or developed by, the secretary
22 in furtherance of this section shall not be a public record and shall
23 be exempt from disclosure under provisions of P.L.1963, c.73
24 (C.47:1A-1 et seq.), commonly known as the open public records
25 act.
26

27 8. (New section) a. This section shall apply to a proprietary
28 institution licensed to offer academic degrees that operates in this
29 State.

30 b. A proprietary institution licensed to offer academic degrees
31 shall provide the secretary a teach-out plan that addresses a
32 potential closure of the institution. The teach-out plan shall be
33 updated as required by the secretary.

34 c. A teach-out plan shall include any information required by
35 the secretary and shall state that:

36 (1) the institution shall make all reasonable efforts to ensure that
37 any closure of the institution complies with the requirements of
38 sections 9 through 12 of P.L. , c. (C.) (pending before the
39 Legislature as this bill);

40 (2) the chief executive officer and the members of the governing
41 body of the institution were not in an executive position or a
42 member of a governing body of an institution in which a disorderly
43 closure occurred; and

44 (3) any institutional financial aid agreement offered to a student
45 shall contain language stating that, in the event of a disorderly
46 closure, the institutional debt shall be void and shall not be
47 recovered, collected, or enforced.

48 d. The Office of the Attorney General shall seek an injunction
49 or other judicial remedy against a proprietary institution licensed to

1 offer academic degrees that fails to comply with the requirements of
2 this section, including requiring the institution to refund all tuition
3 and fees paid by any student.
4

5 9. (New section) a. Sections 9 through 12 of P.L. , c. (C.)
6 (pending before the Legislature as this bill) shall apply to an
7 institution of higher education or a proprietary institution licensed
8 to offer academic degrees that operates in this State.

9 b. An institution of higher education or a proprietary institution
10 licensed to offer academic degrees shall enter into a school-to-
11 school teach-out agreement at least 120 days prior to the cessation
12 of institution operations.

13 c. In order to satisfy the requirements of this section, a school-
14 to-school teach-out agreement shall:

15 (1) be arranged by the closing institution;

16 (2) be agreed to by an eligible transfer institution, the closing
17 institution, and the secretary;

18 (3) unless waived for good cause by the secretary, specify that
19 the eligible transfer institution shall:

20 (a) be located within a reasonable distance of the closing
21 institution, if the closing institution has a physical presence in the
22 State;

23 (b) accept the transfer of all completed credits from students
24 affected by the closure; and

25 (c) allow a student affected by the closure to complete the
26 student's program with substantially the same number of credit
27 hours as was required by the closing institution;

28 (4) specify that, on request by a student affected by the closure,
29 the closing institution shall provide a complete academic record and
30 an official transcript to the student at no cost to the student; and

31 (5) meet any other standards as deemed appropriate by the
32 secretary.
33

34 10. (New section) a. The Secretary of Higher Education shall
35 approve an institution of higher education or a proprietary
36 institution licensed to offer academic degrees to act as an eligible
37 transfer institution if the institution:

38 (1) is in good standing with its accreditor and, if applicable, its
39 licensing body;

40 (2) if applicable, has not been sanctioned by the United States
41 Department of Education due to having a high cohort loan default
42 rate;

43 (3) has not been placed on Heightened Cash Monitoring
44 Payment Method Level 2 by the United States Department of
45 Education;

46 (4) within the previous five years has not had any judgments
47 related to a consumer protection law entered against it in favor of a
48 law enforcement agency; and

1 (5) meets the requirements provided in section 9 of P.L. , c.
2 (C.) (pending before the Legislature as this bill), and any
3 additional standards provided pursuant to subsection b. of this
4 section.

5 b. The secretary may establish additional standards on a case-
6 by-case basis for approving an eligible transfer institution.
7

8 11. (New section) a. Before any institution of higher education
9 or proprietary institution licensed to offer academic degrees ceases
10 educational instruction or administrative operation, the institution
11 shall file with the eligible transfer institution or a third-party
12 approved by the secretary copies of all essential records of the
13 current or former students of the institution. The obligation of an
14 institution under this section shall not be discharged in bankruptcy.

15 b. If an institution of higher education or a proprietary
16 institution licensed to offer academic degrees does not file all
17 essential records in accordance with this section, the Office of the
18 Attorney General may:

19 (1) require the institution to refund all tuition and fees paid by a
20 student whose records are not filed in accordance with this section;
21 and

22 (2) seek an injunction or other judicial remedy against the
23 institution or school.
24

25 12. (New section) a. It shall be an unlawful practice and a
26 violation of P.L.1960, c.39 (C.56:8-1 et seq.) for any institution of
27 higher education, proprietary institution licensed to offer academic
28 degrees, person, or entity to collect on a student's institutional debt
29 if the institutional financial aid agreement does not contain the
30 language required under paragraph (3) of subsection c. of section 8
31 of P.L. , c. (C.) (pending before the Legislature as this bill).

32 b. It shall be an unlawful practice and a violation of P.L.1960,
33 c.39 (C.56:8-1 et seq.) for an institution of higher education or
34 proprietary institution licensed to offer academic degrees to collect
35 on the institutional debt of a student who attended a program in
36 which a disorderly closure occurred.
37

38 13. (New section) The Secretary of Higher Education shall
39 adopt rules and regulations pursuant to the "Administrative
40 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate
41 the purposes of sections 6 through 12 of P.L. , c. (C.) (pending
42 before the Legislature as this bill).

43 14. (New section) As used in sections 14 through 20 of P.L. ,
44 c. (C.) (pending before the Legislature as this bill):

45 "Closure" means the cessation of operations by a private career
46 school.

47 "Commissioner" means the Commissioner of Labor and
48 Workforce Development.

1 “Disorderly closure” means a closure that does not meet the
2 requirements of P.L. , c. (C.) (pending before the Legislature as
3 this bill).

4 “Eligible transfer institution” means a private career school that
5 has been approved by the commissioner pursuant to section 17 of
6 P.L. , c. (C.) (pending before the Legislature as this bill).

7 “Institutional debt” means:

8 (1) the amount outstanding on any credit, including unpaid
9 charges, extended by or on behalf of a private career school that a
10 student is obligated to repay, whether the amount has been reduced
11 to a judgment or the school classifies it as a loan; or

12 (2) a nonfederal loan or debt agreement that is issued expressly
13 for postsecondary education expenses and that is guaranteed by a
14 private career school or a private educational lender that is affiliated
15 with a private career school.

16 “Institutional financial aid agreement” means any contract,
17 promissory note, part of an enrollment agreement, or other
18 agreement in which a student agrees to pay an institutional debt.

19 “Orderly closure” means a closure that meets the requirements of
20 P.L. , c. (C.) (pending before the Legislature as this bill).

21 “Private career school” means a privately owned and privately
22 operated postsecondary school, other than an institution of higher
23 education or proprietary institution licensed to offer academic
24 degrees, that furnishes or offers to furnish programs, whether or not
25 requiring a payment of tuition or fee, for the purpose of training,
26 retraining, or upgrading individuals for gainful employment as
27 workers in recognized or emerging occupations.

28 “Student” means an individual enrolled at a private career school
29 in New Jersey, or a New Jersey resident enrolled at a private career
30 school located outside of this State.

31 “Teach-out agreement” means a written agreement between
32 schools that provides for the equitable treatment of students and a
33 reasonable opportunity for students to complete their program of
34 study if a school, or a school location that provides 100 percent of
35 at least one program offered, ceases to operate before all enrolled
36 students have completed their program of study.

37 “Teach-out plan” means a written plan developed by the school
38 that provides for the equitable treatment of students if a school, or a
39 school location, ceases to operate before all students have
40 completed their program of study, and may include, if required by
41 the school’s accrediting agency, a teach-out agreement between
42 schools.

43 15. (New section) a. Sections 14 through 20 of P.L. , c. (C.)
44 (pending before the Legislature as this bill) shall apply to a private
45 career school that operates in this State.

46 b. A private career school shall provide the commissioner a
47 teach-out plan that addresses a potential closure of the school. The
48 teach-out plan shall be updated as required by the commissioner.

1 c. A teach-out plan shall include any information required by
2 the commissioner and shall state that:

3 (1) the school shall make all reasonable efforts to ensure that
4 any closure of a school complies with the requirements of P.L. , c.
5 (C.) (pending before the Legislature as this bill);

6 (2) the chief executive officer and the members of the governing
7 body of the school were not in an executive position or a member of
8 a governing body of a school in which a disorderly closure
9 occurred; and

10 (3) any institutional financial aid agreement offered to a student
11 shall contain language stating that, in the event of a disorderly
12 closure, the institutional debt shall be void and shall not be
13 recovered, collected, or enforced.

14 d. The commissioner shall seek an injunction or other judicial
15 remedy against a private career school that fails to comply with the
16 requirements of this section, including requiring the school to
17 refund all tuition and fees paid by any student.

18

19 16. (New section) a. A private career school shall enter into a
20 school-to-school teach-out agreement at least 120 days prior to the
21 cessation of school operations.

22 b. In order to satisfy the requirements of this section, a school-
23 to-school teach-out agreement shall:

24 (1) be arranged by the closing private career school;

25 (2) be agreed to by an eligible transfer institution, the closing
26 private career school, and the commissioner; and

27 (3) unless waived for good cause by the commissioner, specify
28 that the eligible transfer institution shall:

29 (a) be located within a reasonable distance of the closing school,
30 if the closing school has a physical presence in the State;

31 (b) accept the transfer of all completed credits from students
32 affected by the closure; and

33 (c) allow a student affected by the closure to complete the
34 student's program with substantially the same number of credit
35 hours as was required by the closing school; and

36 (4) not charge a student tuition or fees in excess of the lesser of:

37 (a) the remaining amount that a student affected by the closure
38 would have paid to the closing school to complete the program; or

39 (b) the transfer institution's applicable tuition and fees; and

40 (5) specify that, on request by a student affected by the closure,
41 the closing school shall provide a complete academic record and an
42 official transcript to the student at no cost to the student.

43 17. (New section) a. The Commissioner of Labor and
44 Workforce Development shall approve a private career school to act
45 as an eligible transfer institution if the school:

46 (1) is in good standing with its accreditor and, if applicable, its
47 licensing body;

1 (2) if applicable, has not been sanctioned by the United States
2 Department of Education due to having a high cohort loan default
3 rate;

4 (3) has not been placed on Heightened Cash Monitoring
5 Payment Method Level 2 by the United States Department of
6 Education;

7 (4) within the previous five years, has not entered into any
8 settlement agreements related to a consumer protection law with a
9 law enforcement agency, or had any judgments related to a
10 consumer protection law entered against it in favor of a law
11 enforcement agency; and

12 (5) meets the requirements provided in section 16 of P.L. , c.
13 (C.) (pending before the Legislature as this bill), and any
14 additional standards provided pursuant to subsection b. of this
15 section.

16 b. The commissioner may establish additional standards on a
17 case-by-case basis for approving an eligible transfer institution.
18

19 18. (New section) a. Before any private career school ceases
20 operations, the school shall file with the commissioner copies of all
21 essential records of the current or former students of the school.
22 The obligation of a school under this section shall not be discharged
23 in bankruptcy.

24 b. The records shall present, as separate documents:

25 (1) the official academic transcript of each student;

26 (2) any other academic information usually required by private
27 career schools when considering students for transfer or advanced
28 study; and

29 (3) if requested by the commissioner, the financial aid and
30 financial account information of each student.

31 c. The records shall be accompanied by an affidavit as to the
32 accuracy and completeness of the records on behalf of the school's
33 board of trustees, bursar, chief administrative officer, chief
34 executive officer, chief financial officer, or registrar.

35 d. The commissioner shall maintain a permanent file of all
36 records filed with the commissioner under this section.

37 e. (1) If a student who attended a private career school that
38 closed in accordance with P.L. , c. (C.) (pending before the
39 Legislature as this bill) requests a copy of the student's official
40 academic transcript from the commissioner and the commissioner
41 determines that the requested transcript is missing, incomplete, or in
42 a format inaccessible to the student, the commissioner may issue a
43 replacement transcript for the student based solely on the most
44 recent information provided by the school that the student attended.

45 (2) A replacement transcript issued in accordance with
46 paragraph (1) of this subsection shall be signed by a designee of the
47 commissioner, contain an explanation of the closure of the school,
48 and contain an explanation of the source of all information
49 contained in the replacement transcript.

1 f. (1) Except as provided in paragraph (2) of this subsection, a
2 replacement transcript issued in accordance with this section shall
3 be accepted as an official transcript by any private career school
4 operating in the State.

5 (2) For purposes of student transfer, a private career school may
6 consider, instead of or in addition to a replacement transcript, an
7 unofficial transcript or other transcript information provided by the
8 student that the receiving institution or program deems relevant.

9 g. (1) The commissioner shall adopt regulations necessary to
10 carry out the provisions of this section, which shall include the
11 manner and format in which student records are to be filed with the
12 commissioner, and a description of the circumstances under which a
13 private career school may cease operation.

14 h. If a private career school does not file all essential records
15 with the commissioner in accordance with this section, the
16 commissioner may:

17 (1) require the school to refund all tuition and fees paid by a
18 student whose records are not filed in accordance with this section;
19 and

20 (2) seek an injunction or other judicial remedy against the
21 private career school.
22

23 19. (New section) a. It shall be an unlawful practice and a
24 violation of P.L.1960, c.39 (C.56:8-1 et seq.) for any private career
25 school, person, or entity to collect on a student's institutional debt
26 if the institutional financial aid agreement does not contain the
27 language required under paragraph (3) of subsection c. of section 15
28 of P.L. , c. (C.) (pending before the Legislature as this bill).

29 b. It shall be an unlawful practice and a violation of P.L.1960,
30 c.39 (C.56:8-1 et seq.) for a private career school to collect on the
31 institutional debt of a student who attended a program in which a
32 disorderly closure occurred.
33

34 20. (New section) The Commissioner of Labor and Workforce
35 Development, in consultation with the Commissioner of Education,
36 shall adopt rules and regulations pursuant to the "Administrative
37 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate
38 the purposes of sections 14 through 19 of P.L. , c. (C.) (pending
39 before the Legislature as this bill).
40

41 21. This act shall take effect on the 120th day next following
42 enactment.