

SENATE, No. 2588

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 22, 2020

Sponsored by:

Senator SANDRA B. CUNNINGHAM

District 31 (Hudson)

SYNOPSIS

Establishes certain requirements for closures of institutions of postsecondary education.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning institutions of postsecondary education and
2 supplementing P.L.1989, c.293 (C.34:15C-1 et seq.).
3

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

7 1. As used in this act:

8 “Closure” means the cessation of an educational instruction in at
9 least one program by a private career school or institute of
10 postsecondary education that causes a student to be unable to
11 complete the program prior to the cessation of educational
12 instruction.

13 “Commissioner” means the Commissioner of Labor and
14 Workforce Development.

15 “Disorderly closure” means a closure that does not meet the
16 requirements of this act.

17 “Eligible transfer institution” means a private career school or an
18 institution of postsecondary education that has been approved by
19 the commissioner pursuant to section 4 of this act.

20 “Institution of postsecondary education” means a government
21 unit, person, association, firm, corporation, private organization, or
22 any entity doing business or maintaining facilities within the State,
23 whether operating on a for profit or not for profit basis, which:

24 (1) offers or maintains a course of instruction or instructional
25 program utilized to prepare individuals for future education or the
26 workplace, including instruction in literacy or basic skills, or
27 provides supplemental instruction in recognized occupational skills,
28 pre-employment skills or literacy skills;

29 (2) offers instruction by any method including, but not limited
30 to, classroom, shop, laboratory experience, correspondence, Internet
31 and other distance learning media, or any combination thereof;

32 (3) offers instruction to the general public or in conjunction with
33 New Jersey's workforce investment system; and

34 (4) charges tuition or other fees or costs, or receives public
35 funding for the delivery of any of the above types of instruction.

36 “Institution of postsecondary education” shall not include:

37 (1) employers offering instruction to their employees directly or
38 through a contract instructor, where there is no cost to the employee
39 and no profit to the employer; or

40 (2) schools offering instruction which is avocational, cultural or
41 recreational in nature.

42 “Institutional debt” means:

43 (1) the amount outstanding on any credit, including unpaid
44 charges, extended by or on behalf of a private career school or an
45 institution of postsecondary education that a student is obligated to
46 repay, whether the amount has been reduced to a judgment or the
47 school classifies it as a loan; or

1 (2) a nonfederal loan or debt agreement that is issued expressly
2 for postsecondary education expenses and that is guaranteed by a
3 private career school or an institution of postsecondary education or
4 a private educational lender that is affiliated with a private career
5 school or an institution of postsecondary education.

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

9 "Private career school" means a privately owned and privately
10 operated institution of postsecondary education, other than an
11 institution of higher education, that furnishes or offers to furnish
12 programs, whether or not requiring a payment of tuition or fee, for
13 the purpose of training, retraining, or upgrading individuals for
14 gainful employment as workers in recognized or emerging
15 occupations.

16 "Student" means an individual enrolled at a private career school
17 or an institution of postsecondary education in New Jersey, or a
18 New Jersey resident enrolled at a private career school or an
19 institution located outside of this State.

20

21 2. a. This act shall apply to a private career school or an
22 institution of postsecondary education that operates in this State.

23 b. A private career school or an institution of postsecondary
24 education shall provide the commissioner a close-out plan. The
25 close-out plan shall be updated as required by the commissioner.

26 c. A close-out plan shall include any information required by
27 the commissioner and shall state that:

28 (1) the school or institution shall make all reasonable efforts to
29 ensure that any closure of a program complies with the
30 requirements of this act;

31 (2) the chief executive officer and the members of the governing
32 body of the school or institution were not in an executive position
33 or a member of a governing body of a school in which a disorderly
34 closure occurred;

35 (3) the chief executive officer and the members of the governing
36 body agree to be jointly and severally personally liable for an
37 amount determined by the commissioner, not to exceed \$1,000 for
38 each student who is enrolled at the time of a disorderly closure; and

39 (4) any institutional financial aid agreement offered to a student
40 shall contain language stating that, in the event of a disorderly
41 closure, the institutional debt shall be void and shall not be
42 recovered, collected, or enforced.

43 d. A private career school or an institution of postsecondary
44 education shall furnish a performance bond or irrevocable letter of
45 credit in an amount equal to the school's gross tuition and fees for
46 the prior academic year. The commissioner shall waive this
47 requirement for any institution of postsecondary education that is

1 operated by the State. The commissioner shall adopt regulations to
2 carry out the requirements of this subsection.

3 e. The commissioner shall seek an injunction or other judicial
4 remedy against a private career school or an institution of
5 postsecondary education that fails to comply with the requirements
6 of this section, including requiring the school to refund all tuition
7 and fees paid by any student.

8

9 3. a. A private career school or an institution of postsecondary
10 education shall enter into a school-to-school teach-out agreement
11 prior to the closure of any program of educational instruction.

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

14 (1) be arranged by the closing private career school or
15 institution of postsecondary education;

16 (2) be agreed to by an eligible transfer institution, the closing
17 private career school or institution of postsecondary education, and
18 the commissioner; and

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

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

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

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

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

31 (a) the remaining amount that a student affected by the closure
32 would have paid to the closing school or institution to complete the
33 program; or

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

35 (5) specify that, on request by a student affected by the closure,
36 the closing school or institution shall provide a complete academic
37 record and an official transcript to the student at no cost to the
38 student.

39 c. A student enrolled at a private career school or an institution
40 of postsecondary education within 120 days of a disorderly closure
41 shall be entitled to reimbursement from the school's bond or letter
42 of credit of all tuition and fees paid to the school.

43

44 4. a. The Commissioner of Labor and Workforce Development
45 shall approve a private career school or an institution of
46 postsecondary education to act as an eligible transfer institution if
47 the school or institution:

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

3 (2) if applicable, has cohort loan default rates, as most recently
4 reported by the U.S. Department of Education, that are less than or
5 equal to the cohort loan default rates of the closing institution;

6 (3) is not currently under financial aid restrictions by the U.S.
7 Department of Education;

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

13 (5) meets the requirements provided in section 3 of this act, and
14 any 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 5. a. Before any private career school or an institution of
20 postsecondary education ceases educational instruction or
21 administrative operation, the school shall file with the
22 commissioner copies of all essential records of the current or former
23 students of the school. The obligation of a school or institution
24 under this subsection shall not be discharged in bankruptcy.

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

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

27 (2) any other academic information usually required by
28 institutions of postsecondary education when considering students
29 for transfer or advanced study; and

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

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

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

38 e. (1) If a student who attended a private career school or an
39 institution of postsecondary education that closed in accordance
40 with this act requests a copy of the student's official academic
41 transcript from the commissioner and the commissioner determines
42 that the requested transcript is missing, incomplete, or in a format
43 inaccessible to the student, the commissioner may issue a
44 replacement transcript for the student based solely on the most
45 recent information provided by the school that the student attended.

46 (2) A replacement transcript issued in accordance with
47 paragraph (1) of this subsection shall be signed by a designee of the
48 commissioner, contain an explanation of the closure of the

1 institution, and contain an explanation of the source of all
2 information contained in the replacement transcript.

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

7 (2) For purposes of student transfer, an institution of
8 postsecondary education may consider, instead of or in addition to a
9 replacement transcript, an unofficial transcript or other transcript
10 information provided by the student that the receiving institution or
11 program deems relevant.

12 g. (1) The commissioner shall adopt regulations necessary to
13 carry out the provisions of this section, which shall include the
14 manner and format in which student records are to be filed with the
15 commissioner, and a description of the circumstances under which a
16 private career school or an institution of postsecondary education
17 may cease educational instruction or administrative operation.

18 h. If a private career school or an institution of postsecondary
19 education does not file all essential records with the commissioner
20 in accordance with this section, the commissioner may:

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

24 (2) seek an injunction or other judicial remedy against the
25 private career school or institution of postsecondary education.

26

27 6. a. It shall be an unlawful practice and a violation of
28 P.L.1960, c.39 (C.56:8-1 et seq.) for any private career school,
29 institution of postsecondary education, person, or entity to collect
30 on a student's institutional debt if the institutional financial aid
31 agreement does not contain the language required under paragraph
32 (4) of subsection c. of section 2 of this act.

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

38

39 7. The Commissioner of Labor and Workforce Development, in
40 consultation with the Commissioner of Education, shall adopt rules
41 and regulations pursuant to the "Administrative Procedure Act,"
42 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
43 this act.

44

45 8. This act shall take effect on the 120th day next following
46 enactment.

STATEMENT

This bill establishes certain requirements for the closure of private career schools and institutions of postsecondary education.

Under the bill, a private career school is a privately owned and privately operated institution of postsecondary education, other than an institution of higher education, that furnishes or offers to furnish programs, whether or not requiring a payment of tuition or fee, for the purpose of training, retraining, or upgrading individuals for gainful employment as workers in recognized or emerging occupations.

The bill applies to private career schools and institutions of postsecondary education that operate in this State.

The bill requires private career schools and institutions of postsecondary education to provide the Commissioner of Labor and Workforce Development with a close-out plan, which must be updated as required by the commissioner.

The close-out plan must include any information required by the commissioner and must state that:

(1) the school or institution shall make all reasonable efforts to ensure that any closure of a program complies with the requirements of the bill;

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

(3) the chief executive officer and the members of the governing body agree to be jointly and severally personally liable for an amount determined by the commissioner, not to exceed \$1,000 for each student who is enrolled at the time of a disorderly closure and

(4) any institutional financial aid agreement offered to a student shall contain language stating that, in the event of a disorderly closure, the institutional debt shall be void and shall not be recovered, collected, or enforced. A disorderly closure is a closure that fails to meet the closure requirements of the bill.

The bill requires private career schools and institutions of postsecondary education to furnish a performance bond or irrevocable letter of credit in an amount equal to the school gross tuition and fees for the prior academic year for the school or institution. This requirement shall be waived for institutions of postsecondary education that are operated by the State.

The bill requires private career schools and institutions of postsecondary education to enter into a school-to-school teach-out agreement if the school or institution ceases educational instruction in at least one program, and a student is unable to complete the program prior to the cessation of educational instruction.

In order to satisfy the requirements of the bill, a school-to-school teach-out agreement must be arranged by the closing private career

1 school or institution of postsecondary education and be agreed to by
2 an eligible transfer institution, the closing school or institution, and
3 the commissioner.

4 The bill specifies that, unless waived for good cause by the
5 commissioner, a teach-out agreement must specify that the eligible
6 transfer institution shall:

7 (1) be located within a reasonable distance of the closing school
8 or institution, if the closing school or institution has a physical
9 presence in the State;

10 (2) accept the transfer of all completed credits from students
11 affected by the closure; and

12 (3) allow a student affected by the closure to complete the
13 student's program with substantially the same number of credit
14 hours as was required by the school or institution operating the
15 closing program.

16 Under a teach-out agreement, a student may not be charged
17 tuition or fees in excess of the lesser of:

18 (1) the remaining amount that a student affected by the closure
19 would have paid to the closing school or institution to complete the
20 program; or

21 (2) the transfer institution's applicable tuition and fees.

22 A teach-out agreement must also specify that, on request by a
23 student affected by the closure, the closing school or institution
24 shall provide a complete academic record and an official transcript
25 to the student at no cost to the student.

26 A student enrolled at a private career school within 120 days of a
27 closure that does not satisfy the teach-out agreement requirements
28 is entitled to reimbursement from the school's bond or letter of
29 credit of all tuition and fees paid to the school.

30 The bill provides that the commissioner shall approve a private
31 career school or an institution of postsecondary education to act as
32 an eligible transfer institution if the school or institution:

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

35 (2) if applicable, has cohort loan default rates, as most recently
36 reported by the U.S. Department of Education, that are less than or
37 equal to the cohort loan default rates of the closing institution;

38 (3) is not currently under financial aid restrictions by the U.S.
39 Department of Education; and

40 (4) within the previous five years, has not entered into any
41 settlement agreements related to a consumer protection law with a
42 law enforcement agency, or had any judgments related to a
43 consumer protection law entered against it in favor of a law
44 enforcement agency.

45 The bill allows the commissioner to establish additional
46 standards on a case-by-case basis for approving an eligible transfer
47 institution.

1 Before any private career school or institution of postsecondary
2 education ceases educational instruction or administrative
3 operation, the school is required to file with the commissioner
4 copies of all essential records of the current or former students of
5 the school. This obligation of a school or institution may not be
6 discharged in bankruptcy.

7 The bill requires that the records present, as separate documents:

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

9 (2) any other academic information usually required by
10 institutions of postsecondary education when considering students
11 for transfer or advanced study; and

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

14 The bill requires the records to be accompanied by an affidavit as
15 to the accuracy and completeness of the records on behalf of the
16 school's board of trustees, bursar, chief administrative officer, chief
17 executive officer, chief financial officer, or registrar.

18 The commissioner is required to maintain a permanent file of all
19 records filed with the commissioner.

20 If a private career school or an institution of postsecondary
21 education does not file all essential records with the commissioner
22 in accordance with the bill, the commissioner may require the
23 school or institution to refund all tuition and fees paid by a student
24 whose records are not filed, and seek an injunction or other judicial
25 remedy against the school or institution.

26 The bill provides that it is an unlawful practice and a violation of
27 the State consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), for
28 any private career school, institution of postsecondary education,
29 person, or entity to collect on a student's institutional debt if the
30 institutional financial aid agreement does not contain the language
31 required by the bill, or for a private career school or an institution
32 of postsecondary education to collect on an institutional debt of a
33 student who attended a program in which a disorderly closure
34 occurred.