

Title 18A.
Subtitle 12A.
Part 2.
Article 17. (New)
Eligibility
§§1,2 -
C.18A:71B-117 &
18A:71B-118
§3 –
C.34:15C-10.2a
§4 - Note

P.L. 2021, CHAPTER 53, *approved April 19, 2021*
Senate, No. 1851 (*First Reprint*)

1 **AN ACT** concerning eligibility for State student assistance or other
2 employment and training services and supplementing chapter
3 71B of Title 18A of the New Jersey Statutes and P.L.1989,
4 c.293.

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

8
9 1. The Legislature finds and declares that the State spends
10 considerable funds on educational institutions, including proprietary
11 schools, training providers, and other postsecondary schools. It is in
12 the State's interests to ensure that State funds going to schools,
13 training providers, or their students, are funding consistently high-
14 quality educational experiences, but the State does not have the
15 resources to monitor these programs daily. Instead, to ensure that
16 limited State funds are expended on high-quality programs, the
17 State depends on students' ability to effectively vindicate their
18 rights under State and federal law in litigation against educational
19 institutions that are or may receive funds. Lawsuits like these deter
20 the misuse of State funds without the expenditure of State resources
21 on enforcement, and public filings resulting from such litigation
22 may be monitored by the State to assess whether it is spending its
23 limited funds appropriately.

24 The Legislature further finds and declares that such educational
25 institutions frequently require their students to sign enrollment
26 contracts that include forced arbitration and other restrictive
27 clauses, including clauses that require students to waive their right
28 to participate in a class action against the company. These clauses
29 impede students from being able to sue to enforce State and federal
30 law against their educational institutions, and the few private and
31 individual arbitrations that students are able to file against

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.
Matter enclosed in superscript numerals has been adopted as follows:
¹Senate floor amendments adopted January 11, 2021.

1 educational institutions are not publicly filed and available for
2 monitoring by the State.

3

4 2. a. A student enrolled in a public or independent institution of
5 higher education or a proprietary institution licensed to offer
6 academic degrees shall be ineligible to receive any form of student
7 assistance from the State, including grants, scholarships, and loans,
8 in the event that the institution or school requires the student to:

9 (1) submit to an agreement to arbitrate or to an arbitration
10 proceeding to resolve any matter thereafter relating to the student's
11 enrollment prior to the commencement of any legal action;

12 (2) resolve a complaint relating to the student's enrollment
13 through an internal dispute process;

14 (3) waive any right, forum, or procedure afforded to the student,
15 including any right to file and pursue a civil action, class action or a
16 complaint with, or otherwise notify, any State agency, other public
17 prosecutor, law enforcement agency, or any court or other
18 governmental entity of any alleged violation of the student's rights;
19 or

20 (4) be prohibited from disclosing, discussing, describing, or
21 commenting upon the terms of the student's enrollment agreement
22 or any violation thereof.

23 ¹Nothing in this subsection shall be construed to prohibit a student
24 from receiving any form of student assistance from the State for which
25 the student is eligible at a different institution of higher education or
26 proprietary institution licensed to offer academic degrees.¹

27 b. A public or independent institution of higher education or a
28 proprietary institution licensed to offer academic degrees shall not
29 threaten, retaliate, or discriminate against any student because of
30 the refusal by the student to: consent to an agreement to arbitrate or
31 to an arbitration proceeding; resolve a complaint through an internal
32 dispute process; waive any right, forum, or procedure; or consent to
33 a prohibition to disclose, discuss, describe or comment upon any
34 enrollment agreement terms or violations thereof.

35 c. A public or independent institution of higher education or a
36 proprietary institution licensed to offer academic degrees shall not
37 require a student to opt out of a waiver or take any affirmative
38 action in order to preserve his rights pursuant to this section.

39 d. In the event that a public or independent institution of higher
40 education or a proprietary institution licensed to offer academic
41 degrees requires a student to enter into an enrollment contract or
42 similar agreement, the institution shall annually submit such
43 contracts or agreements to the Secretary of Higher Education.

44 e. Nothing in this act shall be construed to invalidate a written
45 arbitration agreement that is otherwise enforceable under the
46 Federal Arbitration Act (9 U.S.C.s.1 et seq.).

1 3. a. An individual receiving or seeking employment and
2 training services from a training provider shall be ineligible to receive
3 the services or any form of funding for the services, including grants,
4 scholarships, loans, or other State job training funds or federal job
5 training funds, if the training provider requires the individual to:

6 (1) submit to an agreement to arbitrate or to an arbitration
7 proceeding, prior to the commencement of any legal action, to
8 resolve any matter thereafter relating to the individual's receiving
9 the services;

10 (2) resolve, through an internal dispute process, a complaint
11 relating to the individual's receiving the services;

12 (3) waive any right, forum, or procedure afforded to the
13 individual, including any right to file and pursue a civil action, class
14 action or a complaint with, or otherwise notify, any State agency,
15 other public prosecutor, law enforcement agency, or any court or
16 other governmental entity of any alleged violation of the
17 individual's rights; or

18 (4) be prohibited from disclosing, discussing, describing, or
19 commenting upon the terms of the individual's receiving the
20 services or any violation thereof.

21 ¹Nothing in this subsection shall be construed to prohibit an
22 individual from receiving employment and training services or any
23 form of funding for the services for which the individual is eligible
24 from a different training provider.¹

25 b. A training provider shall not threaten, retaliate, or
26 discriminate against any individual because of the refusal by the
27 individual to: consent to an agreement to arbitrate or to an
28 arbitration proceeding; resolve a complaint through an internal
29 dispute process; waive any right, forum, or procedure; or consent to
30 a prohibition to disclose, discuss, describe or comment upon any
31 enrollment agreement terms or violations thereof.

32 c. A training provider shall not require an individual to opt out
33 of a waiver or take any affirmative action in order to preserve his
34 rights pursuant to this section.

35 d. If a training provider requires an individual to take actions
36 which make the individual ineligible to receive employment and
37 training services pursuant to subsection a. of this section, or the
38 training provider violates the provisions of subsection b. of this
39 section, the training provider shall not be placed or retained on the
40 State Eligible Training Provider List maintained pursuant to section
41 14 of P.L.2005, c.354 (C.34:15C-10.2), and shall not receive any
42 federal job training funds or State job training funds.

43 e. In the event that a training provider requires an individual to
44 enter into an enrollment contract or similar agreement, the provider
45 shall annually submit such contracts or agreements to the
46 Commissioner of Labor and Workforce Development.

1 f. Nothing in this act shall be construed to invalidate a written
2 arbitration agreement that is otherwise enforceable under the
3 Federal Arbitration Act (9 U.S.C.s.1 et seq.)

4 g. For the purposes of this section, “federal job training funds”,
5 “State job training funds”, “training provider” shall have the
6 meanings set forth in section 4 of P.L.1989, c.293 (C.34:15C-1),
7 and “employment and training services” shall have the meanings set
8 forth in section 1 of P.L.1992, c.48 (C.34:15B-35) and section 3 of
9 P.L.1992, c.43 (C.34:15D-3).

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11 4. This act shall take effect in the next full academic year
12 beginning after the date of enactment.

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17 Eliminates eligibility of postsecondary students and other
18 individuals for State student assistance, training, and employment
19 services if school or training provider requires student to consent to
20 arbitration agreement or proceeding or to waive certain rights.