

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 19-87—SB 81

Higher Education and Employment Advancement Committee

AN ACT MAKING CERTAIN INSTITUTIONS OF HIGHER EDUCATION AND PRIVATE OCCUPATIONAL SCHOOLS INELIGIBLE FOR PUBLIC FUNDS AND LICENSURE

SUMMARY: Beginning January 1, 2020, this act imposes disclosure requirements on for-profit colleges and universities and private occupational schools that require students, as an enrollment condition, to enter into agreements limiting their legal recourse in claims against the institutions. Under the act, these institutions must disclose the nature and status of certain legal claims against them as part of their applications to the Office of Higher Education (OHE) for licensure, accreditation, or certificates of authorization, as applicable.

The act allows OHE to investigate and take punitive action against such institutions for noncompliance through various measures, including denying licensure, accreditation, or certificates of authorization; imposing monetary penalties; or seeking court orders.

EFFECTIVE DATE: July 1, 2019

§§ 1 & 2 — AFFECTED INSTITUTIONS

By law, OHE administers the state's (1) licensing and accreditation process for degree-granting, for-profit colleges and universities and (2) certificate of authorization process for private occupational schools (see **BACKGROUND**). The act requires these higher education institutions to make certain disclosures when applying to OHE for initial or renewed licensure, accreditation, or certificates of authorization if they require students to enter into an enrollment agreement that contains any provision (1) limiting participation in a class action against the institution; (2) limiting any claim students may have against the institution or the damages associated with the claim; or (3) requiring students to bring claims against the institution in a forum that is less convenient, more costly, or slower-moving than an in-state judicial forum.

§§ 1 & 2 — REQUIRED DISCLOSURES

Under the act, any for-profit college or university or private occupational school with a student enrollment agreement containing any of the above provisions must disclose the following to OHE in its application for initial or renewed licensure, accreditation, or certificate of authorization: (1) the number and status of claims made against the institution by current or former students, including those made against any subsidiary or parent organization, and (2) a description of the nature of the rights asserted. The OHE executive director may

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also require these institutions to submit additional details about these claims.

The act does not specify how far back in time these institutions must go when disclosing these claims.

§§ 5 & 8 — INVESTIGATORY AUTHORITY

The act grants the OHE executive director or his designee the authority to review, inspect, and investigate for-profit colleges and universities and private occupational schools for possible failure to include the required disclosures in applications for licensure or accreditation or certificates of authorization. Consistent with the executive director's investigative powers under existing law, the act allows him to administer oaths, issue subpoenas, compel testimony, and order the production of any record or document. It also allows him to petition the Hartford Superior Court to enforce his order to appear, testify, or produce any record or document.

§§ 1-4, 6 & 7 — PUNITIVE ACTION

The act grants OHE the authority to take punitive action against for-profit colleges and universities and private occupational schools using various measures.

Denial of Licensure, Accreditation, or Certificate of Authorization (§§ 1 & 2)

The act allows the OHE executive director to deny a for-profit college's or university's initial or renewed application for licensure or accreditation if (1) the school fails to include the required disclosures about legal claims in its application or (2) he determines, upon reviewing the required disclosures, that a denial is warranted to protect student interests. The act also allows the director to deny a private occupational school's initial or renewed application for a certificate of authorization under the same circumstances.

Regarding accreditation for a for-profit college or university, the executive director may refuse to accept, or may withdraw previously accepted, regional accreditation for the institution, irrespective of a state law that generally requires OHE to accept regional accreditation (see BACKGROUND).

Monetary Penalties (§§ 1-3 & 6)

The act allows the OHE executive director to withhold state and federal funding from a for-profit college or university or private occupational school under either of the same two circumstances that allow him to deny the institution's licensure, accreditation, or certificate of authorization (see above).

Additionally, the act allows the executive director to assess an administrative penalty of up to \$500 per day against those institutions, presumably for failure to include the required disclosures in the above applications. By law, parties aggrieved by such a penalty may request a hearing before OHE (CGS §§ 10a-34a(d) & -22i(d)).

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Court Orders (§§ 4 & 7)

The act allows the OHE executive director, through the attorney general, to seek an injunction through the Superior Court, presumably to prevent any for-profit college or university from failing to include the required disclosures in applications for licensure or accreditation. (Generally, an injunction prohibits a party from doing an act or continuing to do an act, but in some cases it prohibits a party's continued inaction.)

Similarly, the act allows the OHE executive director, through the attorney general, to seek a court order through the Superior Court to prevent any private occupational school from failing to include the required disclosures in applications for certificates of authorization.

BACKGROUND

Private Occupational Schools

Private occupational schools are privately controlled and offer instruction in trades or industrial, commercial, professional, or service occupations for a fee (CGS § 10a-22a).

Accreditation Acceptance

Connecticut's degree-granting higher education institutions are regionally accredited by the New England Commission of Higher Education. By law, OHE must accept regional accreditation unless it finds cause not to rely upon such accreditation (CGS § 10a-34(i)).