OLR Bill Analysis
SB 81

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

SUMMARY

Beginning January 1, 2020, this bill imposes disclosure requirements on for-profit colleges and universities and private occupational schools that require students to enter into agreements as a condition of enrollment that limit their right to legal recourse in claims against the institutions. Under the bill, 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 bill allows OHE to investigate and take punitive measures against such institutions for noncompliance through various measures, including denying licensure, accreditation, or certificates of authorization; imposing monetary penalties; or seeking court orders (see COMMENT).

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 bill requires these 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 provisions that do the following:

1. limit participation in a class action against the institution,
2. limit any claim students may have against the institution or the damages associated with the claim, or

3. require 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 bill, any for-profit college or university or private occupational school with a student enrollment agreement that contains 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 of claims made against the institution, including claims made against a parent organization or subsidiary of the institution, by a current or former student;

2. a description of the nature of the rights asserted; and

3. the status of these claims.

The bill does not specify how far back in time a for-profit institution must go when listing claims against it for initial or renewal applications.

§§ 5 & 8 — INVESTIGATORY AUTHORITY

The bill 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. Similar to the executive director’s investigative powers under current law, the bill 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.
PUNITIVE MEASURES

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

**For-Profit Colleges and Universities (§§ 1, 3-5)**

**Denial of licensure or accreditation.** Under the bill, the OHE executive director may deny a for-profit college 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.

Regarding accreditation, the executive director may refuse to accept, or may withdraw previously accepted, regional accreditation for the institution (see COMMENT).

**Monetary penalties.** The bill allows the OHE executive director to withhold state and federal funding from a for-profit college or university. (The bill does not specify the circumstances under which the executive director could withhold the funding.)

Additionally, the bill allows the executive director to assess an administrative penalty of up to $500 per day against for-profit colleges and universities, presumably for failure to include the required disclosures in applications for licensure or accreditation. By law, parties aggrieved by such a penalty may request a hearing before OHE (CGS § 10a-34a(d)).

**Court-ordered injunctions.** The bill 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.)

**Private Occupational Schools (§§ 2, 6-8)**
Denial of certificate of authorization. Under the bill, the OHE executive director may deny a private occupational school’s initial or renewed application for a certificate of authorization 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.

Monetary penalties. The bill allows the OHE executive director to withhold state and federal funding from a private occupational school. (The bill does not specify the circumstances under which the executive director could withhold the funding.)

Additionally, the bill allows the executive director to assess an administrative penalty of up to $500 per day against private occupational schools, presumably for failure to include the required disclosures in applications for certificates of authorization. By law, parties aggrieved by such a penalty may request a hearing before the OHE executive director (CGS § 10a-22i(d)).

Court orders. The bill 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 remuneration (CGS § 10a-22a).

COMMENT
Refusal or Withdrawal of Accreditation Acceptance
Connecticut’s degree-granting higher education institutions are regionally accredited by the New England Commission of Higher Education. Existing law requires OHE to accept regional accreditation unless it finds cause not to rely upon such accreditation (CGS § 10a-34(i)). The bill, however, allows OHE’s executive director to deny or
withdraw the prior acceptance of regional accreditation in contradiction of existing law (1) for violating legal claim disclosure requirements or (2) based upon the executive director’s protection of student interests as a matter of public policy.

**COMMITTEE ACTION**

Higher Education and Employment Advancement Committee

Joint Favorable
Yea 16  Nay 5  (03/12/2019)