

Date of Hearing: April 23, 2012

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Marty Block, Chair

AB 2296 (Block) – As Amended: April 9, 2012

SUBJECT: Private Postsecondary Education Act of 2009: disclosures.

SUMMARY: Requires institutions regulated by the Bureau for Private Postsecondary Education (Bureau) to provide additional disclosures to prospective students. Specifically, this bill:

- 1) Requires institutions regulated by the Bureau to disclose in the school catalogue whether the institution is accredited by an accrediting agency approved by the United States Department of Education (USDE), and, if an institution is unaccredited and offering associate, baccalaureate, masters, or doctoral degrees, requires disclosure of the known limitations of the degree, including, but not limited to:
 - a) Whether the degree is recognized for licensure or certification in California and other states;
 - b) Whether a graduate of the degree program will be eligible to sit for the applicable licensure exam in California and other states;
 - c) That a degree from an unaccredited institution is not recognized for some employment positions, including, but not necessarily limited to, positions with the State of California; and,
 - d) That a student attending an unaccredited institution is not eligible for federal student financial aid programs.
- 2) Provides for various changes to the Student Performance Fact Sheet, required to be disclosed to students prior to enrollment, including:
 - a) Requires placement rates to be calculated for each program that is designed to lead to, or the institution makes a claim related to preparing students for a recognized career, occupation, vocation, job, or job title.
 - b) Requires the disclosure of salary data, regardless of whether the institution makes claims as to salaries that may be earned upon graduation. Removes the requirement that institutions disclose Employment Development Department (EDD) wage data.
 - c) Requires each institution to provide the Bureau with data that sufficiently identifies graduates of each program, to enable the Bureau, in collaboration with other agencies, to verify employment and wages for graduates.
 - d) Requires, if the institution participates in federal financial aid programs, to disclose the most recent three-year cohort default rate reported by the USDE and the percentage of enrolled students receiving federal student loans.

- 3) Requires an institution to provide to the Bureau, in the annual report, a list of the occupations for which each of the institution's programs are intended to train students using the United States Department of Labor Standard Occupational Classification codes.
- 4) Establishes a new definition for "graduates employed in the field" to mean graduates who are gainfully employed in a position for at least 13 weeks and working at least 17.5 hours per week in one of the occupations identified by the institution. For occupations not requiring passage of a licensure examination, employment must begin within six months of graduation. For occupations that require passage of a licensing examination, employment must begin within six months after the announcement of the examination results for the first examination available after a student completes a program.
- 5) Requires that the information used to substantiate Student Performance Fact Sheet data be documented and maintained by the institution for five years and to include specific records of employment, such as contact information for employers, job descriptions, starting dates and hours worked, and contact information for graduates. Requires this information to be made available to the Bureau upon request.
- 6) Requires an institution that maintains an internet website to provide the school catalog, school performance fact sheet, student brochures, a link to the Bureau's website, the most recent annual report submitted to the Bureau, and information concerning where students may access the Bureau's website anywhere the institution identifies itself as being approved by the Bureau.

EXISTING LAW establishes the Private Postsecondary Education Act (Act) which, among its numerous provisions, requires numerous program performance and student outcome data disclosures and prohibits certain conduct on the part of private postsecondary education institutions. The Act establishes the Bureau within the Department of Consumer Affairs (DCA) to provide oversight and regulation of private postsecondary institutions.

FISCAL EFFECT: Unknown

COMMENTS: This bill has been double-referred to the Business, Professions and Consumer Protection Committee.

Background. After numerous legislative attempts to remedy the laws and structure governing regulation of private postsecondary institutions, AB 48 (Portantino) was enacted in January 1, 2010, to make many substantive changes that both created a new, solid foundation for oversight and responded to the major problems with the Former Act. The Act as created by AB 48 requires all unaccredited colleges in California to be approved by the new Bureau and all nationally accredited colleges to comply with numerous student protections. It also establishes prohibitions on false advertising and inappropriate recruiting. The Act requires disclosure of critical information to students such as program outlines, graduation and job placement rates, and license examination information, and ensures colleges justify those figures. The Act also guarantees students can complete their educational objectives if their institution closes its doors, and, most importantly, it gives the Bureau an array of enforcement tools to ensure colleges comply with the law.

Need for this bill. On February 14, 2012, the Assembly Higher Education Committee and the Senate Business, Professions and Economic Development Committee held a joint oversight hearing to evaluate California's regulatory structure for private postsecondary education, including a discussion of the Act and the Bureau's implementation of its provisions. According to the author, this bill is intended to respond to several of the concerns raised at the oversight hearing, specifically, increasing transparency among private colleges and universities and ensuring that prospective students have all of the information necessary to make informed decisions about where to pursue postsecondary education.

Unaccredited degrees. Existing law requires institutions offering unaccredited *doctoral* degrees to disclose to students that the degree is unaccredited, along with any known limitations of the degree, including whether the degree is recognized for licensure in California or other states. This bill would require institutions to disclose to students whether the institution is accredited and the various limitations of unaccredited degrees. Accreditation is a voluntary, non-governmental peer review process utilized for the purpose of determining academic quality of higher education institutions and programs. Unaccredited degrees can limit a student's career options. Some career fields and employers require degrees from accredited colleges; this is especially true in professions like education and health care, where certification or licensure is a pre-requisite for employment. Degrees from unaccredited institutions are not recognized for employment with the State of California. Further, students attending unaccredited institutions are not eligible to participate in federal and state financial aid programs.

This bill would establish the following specific disclosure requirements:

- 1) Whether the degree is recognized for licensure or certification in California and other states and whether a graduate of the program will be eligible to sit for the applicable licensure exam in California and other states. These provisions may be somewhat duplicative for California, as it appears that all licensure programs require passage of an examination. However, it is unclear if licensure programs that require an accredited degree, but not passage of a licensure examination, exist in other states.
- 2) That a degree from an unaccredited institution is not recognized for some employment positions, including positions with the State of California. Committee staff understands that it is the policy of the state to require that, for positions that require a degree, the degree be from an accredited institution.
- 3) That a student attending an unaccredited institution is not eligible for federal financial aid programs. Both federal and state financial aid programs require eligible institutions to be accredited by a recognized USDE accreditation agency. *The author may wish to consider an amendment to clarify that students are ineligible for both state and federal aid.*

Student Performance Fact Sheet. Existing law requires institutions covered by the Act to provide prospective students with a Student Performance Fact Sheet. The Fact Sheet includes data on graduation rates, job placement, salary and wage information, and licensure examination passage rates. The Fact Sheet is designed to give students the information necessary to help make informed educational choices. This bill would make several changes to the Fact Sheet.

- 1) Job placement. Existing law and regulation require placement rates to be calculated for each program that is designed to lead to, or prepare students for, a specific career or occupation.

To be counted as a placement, students must self-identify as gainfully employed within six months of graduation in a position for which the skills obtained through their education "provided a significant advantage to the student in obtaining the position." Institutions must report placements for (1) graduates working less than 34 hours per week in a single position and (2) graduates working more than 34 hours per week in a single position. Institutions are required to make available to students a list of the employment positions used to calculate the job placement rates.

This bill would make several changes to the way placement rates are calculated and reported:

- a) Institutions would be required to identify the specific occupations for which each program is designed to lead, using the United States Department of Labor's Standard Occupational Classification codes. Only graduates who obtain positions in these occupations could be counted in the educational program placement rates. Committee staff understands this change is in response to concerns that placement rates that count occupations that are unrelated to an education program may be misleading to a prospective student.
 - b) Institutions would be required to only count placements for graduates employed in a single position for at least 13 weeks, working at least 17.5 hours per week in one of the identified occupations. Committee staff understands that the 13 week requirement is consistent with the recently enacted federal regulations governing gainful employment and placement data. The author notes that the 17.5 hour per week requirement was contained in the former law governing private postsecondary education. The single position requirement is consistent with current regulations.
 - c) In response to concerns from institutions that delays in the availability of licensure examinations affects a student's ability to find employment within six months of graduation, this bill would clarify that for occupations requiring a licensing examination, placements must begin employment within six months after the announcement of the examination results for the first examination available after graduation.
- 2) Cohort default rate. This bill would require institutions to disclose on the Fact Sheet (1) the percentage of students receiving federal loans and (2) the percentage of student loan defaults (three-year cohort default rate, as reported by the USDE). According to the author, federal loan defaults are a key indicator of institutional quality used by the federal government. This information is readily available from the USDE. This change appears in line with recent Legislative actions (SB 70, 2011) to link Cal Grant institutional participation to loan default rates.
 - 3) Salary and wage data. Existing law requires salary data to be disclosed only if an institution makes a claim regarding the potential salary of a graduate. This bill would require all institutions to disclose salary and wage data. Supporters of this bill argue that nearly all schools suggest to prospective students that they will 'earn a good living' upon graduation, but few make specific salary representations, yet under existing law these institutions would not be required to disclose salary data. This bill would also require salary and wage disclosures to be based on the actual salary and wage data reported by graduates.

- 4) Data collection and reporting. This bill would require the collection and documentation of specific data that justifies the information contained in the Student Performance Fact Sheet. Institutions would be required to provide these records to the Bureau upon request. These provisions appear consistent with regulations recently adopted by the Bureau.

Website disclosure. Existing law requires the Bureau to post institutional information such as School Performance Fact Sheets and school catalogs on the Bureau website. However, supporters of this bill argue that many students look to institutional websites for information regarding programs and performance data. This bill would require institutions to post on their websites specific school and program performance data.

Arguments in support. Public Advocates states that this bill will help close loopholes in the current law and provide students who attend institutions covered by the Bureau with more accurate consumer information. Doing so will benefit students and schools as well as taxpayers who are investing in many of these schools through the Cal Grant program. In particular, AB 2296 will correct the currently misleading job placement definition and salary disclosure requirement. Unfortunately, the current California statutory definition of job placement departs from the definitions used by the USDE and does not accurately measure whether a student will likely find the kind of job the program advertises.

Arguments in opposition. The California Association of Private Postsecondary Schools (CAPPS) argues that this bill makes sweeping changes to AB 48 (which created the Act), which was carefully written and recently implemented through the regulatory process. CAPPS states that it is unrealistic to require schools to disclose "all known" limitations of a degree in all 50 states, setting up a school for failure and litigation. CAPPS states that the three-year cohort default rate is not related to either student performance or institutional performance. Finally, CAPPS opposes the changes to "graduates employed in the field" stating, "Introducing a new 13 week requirement, 17.5 hour requirement and 32 hour requirement is excessive, and destroys the existing regulatory plan for no stated benefit."

Prior legislation. AB 2393 (Ammiano, 2010), which was vetoed by Governor Schwarzenegger, would have requires institutions regulated by the Bureau to comply with various placement rate calculations for specified programs.

REGISTERED SUPPORT / OPPOSITION:

Support

California Faculty Association
California Psychological Association
Children's Advocacy Institute
Consumer Federation of California
Consumers Union
Public Advocates
The Institute for College Access and Success
University of San Diego, School of Law, Center for Public Interest Law

Opposition

California Association of Private Postsecondary Schools

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