

SENATE BILL No. 221

March 18, 2015, Introduced by Senator SCHUITMAKER and referred to the Committee on Regulatory Reform.

A bill to provide for the reciprocal exchange of distance education between this state and other states or a higher education compact; to prescribe the powers and duties of certain state agencies and officials; to provide for collection of fees; to designate the state agency for negotiating distance education agreements; to establish a complaint process for students enrolled in distance education programs at participating colleges and universities; to establish an authorization and approval process for out-of-state distance education providers and participating colleges and universities in this state; and to provide penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "higher education authorization and distance education reciprocal
3 exchange act".

1 Sec. 2. As used in this act:

2 (a) "Accredited" means approved by an accrediting body
3 recognized by the United States Department of Education.

4 (b) "Authorization" means either of the following:

5 (i) An authorization from the department under section 4(1) to
6 participate in a reciprocal agreement.

7 (ii) An authorization from the department under section 4(3) to
8 provide distance education to residents of this state issued to a
9 college or university that is located in another state and is not a
10 party to a reciprocal agreement.

11 (c) "College or university" means a degree or certificate
12 granting public or private college or university, junior college,
13 or community college.

14 (d) "Department" means the department of licensing and
15 regulatory affairs.

16 (e) "Distance education" means education that uses 1 or more
17 technologies to deliver instruction to students who are separated
18 from the instructor, and to support regular and substantive
19 interaction between the students and the instructor, either
20 synchronously or asynchronously. As used in this subdivision,
21 "technologies" may include any of the following:

22 (i) The Internet.

23 (ii) One-way and 2-way transmissions through open broadcast,
24 closed circuit, cable, microwave, broadband lines, fiber optics,
25 satellite, or wireless communications devices.

26 (iii) Audio conferencing.

27 (iv) Video cassettes, DVDs, and CD-ROMs, if the cassettes,

1 DVDs, or CD-ROMs are used in a course in conjunction with any of
2 the technologies described in subparagraph (i), (ii), or (iii).

3 (f) "Participating college" means a college or university that
4 is located in this state; elects to participate in a reciprocal
5 agreement under this act; and meets the requirements of section 4.

6 (g) "Reciprocal agreement" means an agreement between this
7 state and a higher education compact or 1 or more other states that
8 allows participating colleges to provide distance education to
9 residents of this state and other member states under this act.

10 Sec. 3. (1) The department may on behalf of this state enter
11 into reciprocal agreements with public educational agencies in
12 other states or a higher education compact.

13 (2) The department may promulgate rules it considers necessary
14 to implement, administer, and enforce this act. The department
15 shall promulgate these rules under the administrative procedures
16 act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

17 Sec. 4. (1) The department shall authorize a college or
18 university that is located in this state to participate in a
19 reciprocal agreement to which the department is a party if the
20 college or university meets all of the following:

21 (a) Enters into an agreement with the department to subject
22 itself to section 5 and the other requirements of this act.

23 (b) Is an accredited college or university.

24 (c) Submits an application for authorization to participate in
25 the reciprocal agreement, on a form and with accompanying
26 documentation as prescribed by the department, that provides the
27 name of the college or university, its business address in this

1 state, the name of an individual designated for contact, proof of
2 accreditation, proof of financial responsibility in the form of
3 proof of certification, under 34 CFR 668.13, of compliance with the
4 financial responsibility standards of 34 CFR, part 668, subpart L,
5 and any other relevant information requested by the department.

6 (d) Pays an application fee of \$2,000.00 and an initial
7 authorization fee of \$2,000.00.

8 (2) An authorization under subsection (1) to participate in a
9 reciprocal agreement expires on December 31. A participating
10 college may renew an authorization for 1 or more additional
11 calendar years by submitting an application for renewal on a form
12 prescribed by the department, and paying an annual renewal fee of
13 \$2,000.00, by December 1 of each year.

14 (3) A college or university that is located outside of this
15 state and is not a party to a reciprocal agreement to provide
16 distance education to residents of this state may elect to obtain
17 authorization from the department to provide that distance
18 education. The department shall provide that authorization if the
19 college or university meets all of the following:

20 (a) Enters into an agreement with the department to subject
21 itself to section 5 and the other requirements of this act.

22 (b) Submits an application for authorization to provide
23 distance education to residents of this state, on a form and with
24 accompanying documentation as prescribed by the department, that
25 provides the name of the college or university, its business
26 address, the name of an individual designated for contact, proof of
27 accreditation, proof of financial responsibility in the form of

1 proof of certification, under 34 CFR 668.13, of compliance with the
2 financial responsibility standards of 34 CFR, part 668, subpart L,
3 and any other relevant information requested by the department.

4 (c) Pays an application fee of \$5,000.00 and an initial
5 authorization fee of \$5,000.00.

6 (4) An authorization under subsection (3) to provide distance
7 education to residents of this state expires on December 31. A
8 college or university may renew an authorization obtained under
9 subsection (3) for 1 or more additional calendar years by
10 submitting an application for renewal on a form prescribed by the
11 department, and paying an annual renewal fee of \$5,000.00, by
12 December 1 of each year.

13 (5) The department may adjust the fees authorized under this
14 section every year by an amount determined by the state treasurer
15 to reflect the cumulative annual percentage change in the Detroit
16 consumer price index in the preceding year and rounded to the
17 nearest dollar. As used in this subsection, "Detroit consumer price
18 index" means the most comprehensive index of consumer prices
19 available for the Detroit area by the Bureau of Labor Statistics of
20 the United States Department of Labor.

21 (6) Fees collected under this act shall be used solely for
22 administrative expenses incurred under this act and are not
23 refundable.

24 Sec. 5. (1) Each participating college and each out-of-state
25 college or university that holds an authorization from the
26 department under section 4(3) shall assure that each student
27 enrolled in a distance education program at that participating

1 college or out-of-state college or university receives the services
2 for which he or she has paid, or receives reasonable financial
3 compensation for those services he or she has not received if a
4 course in which he or she is enrolled is terminated before the
5 expected completion date of that course. This assurance shall be in
6 writing and may include tuition assurance funds, surety bonds,
7 teach-out provisions, or other practices considered sufficient to
8 protect consumers by the department. The department may promulgate
9 rules for the administration of this subsection, including the
10 development of forms it considers appropriate.

11 (2) Each participating college and each out-of-state college
12 or university that holds an authorization from the department under
13 section 4(3) shall provide for the protection of student records
14 for students enrolled in a distance education program at that
15 participating college or out-of-state college or university and
16 shall comply with any rules promulgated by the department
17 concerning the protection of those student records.

18 (3) Each participating college and each out-of-state college
19 or university that holds an authorization from the department under
20 section 4(3) shall adopt and publish a written policy that allows
21 students enrolled in a distance education program at that
22 participating college or out-of-state college or university to file
23 a complaint with the department for any violation of this act or
24 rules promulgated under this act. The department shall establish a
25 complaint process for those students.

26 (4) Each participating college and each out-of-state college
27 or university that holds an authorization from the department under

1 section 4(3) shall meet the standards of practice contained in the
2 interregional guidelines for the evaluation of distance education,
3 published by the Council of Regional Accrediting Commissions in
4 July of 2009, which are incorporated by reference.

5 Sec. 6. (1) After notice and opportunity for hearing under the
6 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
7 24.328, the department shall do 1 or more of the following if it
8 determines that a participating college that holds an authorization
9 from the department under section 4(1), or an out-of-state college
10 or university that holds an authorization from the department under
11 section 4(3), has violated this act, a rule promulgated under this
12 act, or an order issued under this act:

13 (a) Place a limitation on the authorization.

14 (b) Suspend the authorization.

15 (c) Deny an authorization or renewal of the authorization.

16 (d) Revoke the authorization.

17 (e) Assess an administrative fine under subsection (2).

18 (f) Order restitution to an aggrieved student who participated
19 or is participating in a distance education program.

20 (g) Impose any other sanction established by the department by
21 rule.

22 (2) The department may assess an administrative fine of not
23 more than \$1,000.00, plus the department's actual costs of the
24 investigation, for a violation of this act or rules promulgated
25 under this act. However, the department may not assess
26 administrative fines under this subsection against a college or
27 university that in the aggregate are more than \$5,000.00 for

- 1 multiple violations of this act or rules promulgated under this act
- 2 that arise from the same transaction.