

# STATE OF NEW YORK

7769--A

2019-2020 Regular Sessions

## IN ASSEMBLY

May 20, 2019

Introduced by M. of A. EPSTEIN, GOTTFRIED, REYES -- read once and referred to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to reporting and publishing of certain financial statements and statistical reports received by the commissioner of education

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The education law is amended by adding a new section 239-c to read as follows:

§ 239-c. For-profit higher education institutions; enhanced reporting.  
1. Definitions. As used in this section the term "for-profit institution of higher education" means any licensed private career school, certified English as a second language school, or online education marketplace as defined in article one hundred one of this chapter, or college that:

(a) provides a program leading to an associates or baccalaureate degree;

(b) is legally authorized in New York state to provide a program of education beyond secondary education; and

(c) is neither a public or nonprofit institution.

2. The NYS proprietary institution disclosure website. (a) The commissioner shall establish a publicly accessible website for the dissemination of data and disclosures related to for-profit institutions of higher education. The website at a minimum shall publish:

(i) A listing of each for-profit institution of higher education in the state. Such listing of each for-profit institution of higher education shall display information including, but not limited to, the following:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD11661-07-9

1 (1) All approved locations of the for-profit institution of higher  
2 education;

3 (2) Listing of all degree and certificate programs of the for-profit  
4 institution of higher education that have been approved by the depart-  
5 ment;

6 (3) Basic information of the for-profit institution of higher educa-  
7 tion such as the year founded and any accreditations held;

8 (4) Whether the for-profit institution of higher education is an  
9 approved state authorization reciprocity agreement institution and, if  
10 so, the institution's membership status;

11 (5) Whether the for-profit institution of higher education is eligible  
12 to participate in federal title IV programs;

13 (6) Whether the for-profit institution of higher education partic-  
14 ipates in any state specific programs including, but not limited to, the  
15 tuition assistance program, enhanced tuition awards program, or a  
16 program pursuant to section sixty-four hundred fifty-one of this chap-  
17 ter.

18 (ii) Forms and/or links to the for-profit institution of higher  
19 education's complaint process and instructions or links to instructions  
20 detailing how students can formally make a complaint against their  
21 program to both their school and later, if necessary, to the department;

22 (iii) Any reports produced regarding complaints that have been inves-  
23 tigated by the department and notice of any adverse actions that have  
24 been taken by the department against a for-profit institution of higher  
25 education program due to a finding of a violation;

26 (iv) An electronic means for former students of closed for-profit  
27 institutions of higher education to formally request from the department  
28 their student transcripts or other records that may have been collected  
29 and digitally stored by the department;

30 (v) Data tracking the annual enrollment at for-profit institutions of  
31 higher education; and

32 (vi) Other information related to for-profit institutions of higher  
33 education that the commissioner has been required by another provision  
34 of law to post on a publicly accessible website.

35 (b) The department shall also include as a part of each for-profit  
36 institution of higher education listing information taken from the annu-  
37 al audited financial statements of each institution. The department  
38 shall display in a way easy to understand by the public a visual repre-  
39 sentation portraying the financial viability of the for-profit institu-  
40 tion. The department in constructing this financial representation shall  
41 consult with members of the for-profit sector to develop a clear way to  
42 accurately display relevant information that is part of the for-profit  
43 institution's annual audited financial statements. At minimum, the visu-  
44 al representation should consider finances spent on student services,  
45 rent and upkeep, payment of professors and staff, and the amount spent  
46 on advertising, and the federal financial responsibility composite score  
47 of the institution.

48 (c) All actions by the federal government, an accreditor, another  
49 state, or country taken against a for-profit institution of higher  
50 education must be listed in a clear and conspicuous way on each for-pro-  
51 fit institution's listing.

52 (d) The department should update the website listing for each proprie-  
53 tary institution with any changes as such information is received and at  
54 a minimum shall update annually each proprietary institution's listing  
55 for accuracy.

(e) The commissioner shall promulgate any necessary regulations for the provisions relating to the website, including a full account of all the metrics that the commissioner shall utilize for the visual representation portraying a for-profit institution's financial viability. The commissioner shall also provide a process so that for-profit institutions may, if needed, challenge what is listed for their institution. At no time during a challenge should a for-profit institution's listing on the publicly accessible website be completely removed.

3. Rapid enrollment increases or decreases at for-profit institutions of higher education. (a) If a program at a for-profit institution of higher education that has been approved by the department has an increase in enrollment equal to or more than fifteen percent on a year-to-year basis such enrollment increase shall cause the department to review the program within thirty business days. The review of the program conducted by the department shall ensure that an institution is still providing a quality education and is in full compliance with state law and departmental regulations. If an institution is not in compliance then the commissioner is empowered to take steps to remediate the issues and shall flag any issues discovered on the publicly accessible website pursuant to subdivision two of this section.

(b) If a program at for-profit institution of higher education that has been approved by the department has a decrease in enrollment equal to or more than fifteen percent on a year-to-year basis such enrollment decrease shall cause the department to review the program within thirty business days. The review of the program conducted by the department shall ensure that an institution is still providing a quality education and is in full compliance with state law and departmental regulations. If an institution is not in compliance then the department is empowered to take steps to remediate the issues and shall flag any issues discovered on the publicly accessible website pursuant to subdivision two of this section.

(c) For violations discovered because of reviews taken by the department pursuant to paragraphs (a) and (b) of this subdivision, the commissioner depending on the severity of the infraction shall have the authority to require a for-profit institution of higher education to operate under additional restrictions, including, but not limited to, the following:

(i) Requiring the for-profit institution of higher education to enact a remediation plan with periodic reporting;

(ii) Limiting new student enrollment into impacted programs at the for-profit institution of higher education in question; or

(iii) Instituting a moratorium on any new programs or degrees or certificates that can be issued by a for-profit institution of higher education.

(d) The commissioner shall promulgate rules and regulations governing the manner in which enrollment shall be tracked by the department using existing incoming data.

(e) Nothing in this subdivision shall limit any options for such additional enforcement measures that the commissioner may have by any other law, rule, or regulation in place at the time of the effective date of this section.

§ 2. This act shall take effect one year after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.