

STATE OF NEW YORK

3076

2025-2026 Regular Sessions

IN SENATE

January 23, 2025

Introduced by Sen. FAHY -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to enacting the "higher education closure advanced notice act"

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

1 Section 1. The education law is amended by adding a new article 25 to
2 read as follows:

3 ARTICLE 25
4 HIGHER EDUCATION CLOSURE ADVANCED NOTICE ACT

5 Section 1301. Short title.
6 1302. Definitions.
7 1303. Notice.
8 1304. Exceptions.
9 1305. Powers of the commissioner.
10 1306. Civil penalty.
11 § 1301. Short title. This article shall be known and may be cited as
12 the "higher education closure advanced notice act".
13 § 1302. Definitions. For the purposes of this article, the following
14 terms shall have the following meanings:
15 1. "Affected students" means enrolled students who may reasonably be
16 expected to experience an interruption in the continuity of their
17 program of higher education as a consequence of a proposed closure of an
18 institution of higher education by such institution.
19 2. "Interruption in the continuity of a program of higher education"
20 means a break in continuous semester-to-semester enrollment in a
21 degree-bearing program that could be reasonably expected to occur if the
22 institution of higher education at which a student is enrolled ceases to
23 offer educational instruction.

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

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1 3. "Institution of higher education" means any business or public
2 entity or not-for-profit organization offering instruction in higher
3 education as defined by subdivision eight of section two of this title.

4 4. "Closure" means a ceasing of offering of educational instruction by
5 an institution of higher education.

6 § 1303. Notice. 1. An institution of higher education shall not order
7 a closure that can be reasonably expected to cause an interruption in
8 the continuity of a program of higher education for affected students
9 unless, at least ninety days before such order takes effect, such insti-
10 tution of higher education gives written notice of such order to the
11 following:

12 (a) affected students;

13 (b) the department; and

14 (c) the local workforce investment boards established pursuant to the
15 federal Workforce Investment Act (P.L. 105-220) for the locality in
16 which the closure will occur.

17 2. The mailing of notice to an affected student's last known address
18 by either first class or certified mail or notification by electronic
19 mail shall be considered acceptable methods for fulfillment of the
20 institution of higher education's obligation to give notice to each
21 affected student under subdivision one of this section.

22 § 1304. Exceptions. 1. Notwithstanding the requirements of subdivision
23 one of section thirteen hundred three of this article that notice of an
24 order of closure be provided at least ninety days before such order
25 takes effect, an institution of higher education shall not be required
26 to provide such notice at least ninety days before an order of closure
27 takes effect where:

28 (a) such closure is necessitated by:

29 (i) a physical calamity or an act of terrorism or war; or

30 (ii) any form of natural disaster; or

31 (b) at the time such notice would have been required:

32 (i) such institution of higher education was actively seeking capital;

33 (ii) such capital sought, if obtained, would have enabled such insti-
34 tution of higher education to avoid or postpone such closure; and

35 (iii) such institution of higher education reasonably and in good
36 faith believed that giving the notice required by subdivision one of
37 section thirteen hundred three of this article would have precluded such
38 institution from obtaining the needed capital.

39 2. Where an institution of higher education is not required to provide
40 notice of an order of closure at least ninety days before such order
41 takes effect as provided in subdivision one of this section, such insti-
42 tution of higher education shall provide as much notice as is practica-
43 ble and at the time such notice is provided shall also provide a brief
44 statement of the basis for such reduced notification period.

45 § 1305. Powers of the commissioner. 1. The commissioner shall
46 prescribe such rules and regulations as may be necessary to carry out
47 the provisions of this article. Such rules and regulations shall, at a
48 minimum, include provisions that allow the parties access to administra-
49 tive hearings for any actions of the department under this article.

50 2. In any investigation or proceeding under this article, the commis-
51 sioner shall have, in addition to all other powers granted by law, the
52 authority to examine any information of an institution of higher educa-
53 tion necessary to determine whether a violation of this article has
54 occurred, including to determine the validity of any defense.

55 3. Where, after an administrative hearing, the commissioner determines
56 that an institution of higher education has violated any requirement of

this article or any rule or regulation promulgated under this article, the commissioner shall issue an order which shall include any penalties assessed by the commissioner under section thirteen hundred six of this article. Upon the entry of such order, any party aggrieved thereby may commence a proceeding for the review thereof pursuant to article seventy-eight of the civil practice law and rules within thirty days of the notice of the filing of such order in the office of the commissioner. Such proceeding shall be commenced directly in the appellate division of the supreme court. Where such order is not reviewed, or where such order is reviewed and the final decision is in favor of the commissioner, the commissioner may file with the county clerk of the county where the institution of higher education resides or has a place of business, the order of the commissioner containing the amount found to be due. The filing of such order shall have the full force and effect of a judgment duly docketed in the office of such clerk. Such order may be enforced by and in the name of the commissioner in the same manner, and with like effect, as that prescribed by the civil practice law and rules for the enforcement of a money judgment.

§ 1306. Civil penalty. 1. An institution of higher education that fails to give notice as required by subdivision one of section thirteen hundred three of this article, and is not subject to an exception pursuant to section thirteen hundred four of this article, shall be subject to a civil penalty of not more than five hundred dollars for each day of such institution of higher education's violation.

2. Where an institution of higher education proves to the satisfaction of the commissioner that the act or omission that violated this article was in good faith and that such institution of higher education had reasonable grounds for believing that such act or omission was not a violation of this article, the commissioner may in such commissioner's discretion reduce the amount of the penalty provided for in this section. In determining the amount of such reduction, the commissioner shall consider:

- (a) the size of the institution of higher education;
- (b) the hardships imposed on affected students by the violations;
- (c) any efforts by the institution of higher education to mitigate the violation; and
- (d) the grounds for the institution of higher education's belief.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.