

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2393

Introduced by Assembly Member Ammiano

February 19, 2010

An act to amend Sections 94874.5, 94897, and 94928 of the Education Code, relating to private postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 2393, as amended, Ammiano. Private postsecondary educational institutions: fair business practices.

(1) The California Private Postsecondary Education Act of 2009 provides for the regulation of private postsecondary educational institutions, ~~with exceptions~~, by the Bureau for Private Postsecondary Education, *with specified exceptions*. The act exempts various institutions from compliance with the provisions of the act, except that those otherwise exempt institutions are required to provide the bureau with specified records and other information prior to closure.

The act requires private postsecondary educational institutions to comply with various fair business practices, and prohibits an institution from, among other things, making an untrue or misleading change in, or untrue or misleading statement related to, a record indicating student completion, placement, employment, salaries, or financial information, including a specified list of records and documents pertaining to financial reports and other records that the institution is required to file with the bureau.

This bill would add to the list of records and documents, in which the institution is prohibited from making an untrue or misleading statement, records related to placement, employment, salaries, or financial

information regarding an occupation or job in an apprenticeship program approved by the Division of Apprenticeship Standards or a position for which the Board of Registered Nursing has established licensure requirements.

The bill would prohibit an institution from using any job or occupational name or description that suggests or implies that the job or occupation is the same as, or similar to, a job or occupation in an apprenticeable field or nursing field in documents relating to placement, employment, salaries, or financial information, unless the information in the document pertains exclusively to the placement, employment, salaries, or financial information in a job or occupation that meets specified requirements.

~~The bill would additionally require institutions that are otherwise exempt from the act to comply with the existing fair business practices provisions.~~

(2) The act requires private postsecondary educational institutions to annually report to the bureau, and publish, various statistics including job placement rates. The act requires job placement rates to be calculated by dividing the number of graduates employed in the field by the number of graduates available for employment for specified programs. The act defines “graduates employed in the field” for the purposes of these provisions.

This bill, with respect to occupations or jobs in an apprenticeship program approved by the Division of Apprenticeship Standards of the Department of Industrial Relations or a position for which the Board of Registered Nursing has established licensure requirements, would separately define “graduates employed in the field” for purposes of the reporting requirements and the fair business practices provisions of the act.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 94874.5 of the Education Code is
- 2 amended to read:
- 3 94874.5. Notwithstanding Sections 94874 and 94874.1, an
- 4 institution that is otherwise exempt from this chapter shall comply
- 5 with ~~Sections 94927.5 and 94897~~ Section 94927.5.

1 SEC. 2. Section 94897 of the Education Code is amended to
2 read:

3 94897. An institution shall not do any of the following:

4 (a) Use, or allow the use of, any reproduction or facsimile of
5 the Great Seal of the State of California on a diploma.

6 (b) Promise or guarantee employment, or otherwise overstate
7 the availability of jobs upon graduation.

8 (c) Advertise concerning job availability, degree of skill, or
9 length of time required to learn a trade or skill unless the
10 information is accurate and not misleading.

11 (d) Advertise, or indicate in promotional material, without
12 including the fact that the educational programs are delivered by
13 means of distance education if the educational programs are so
14 delivered.

15 (e) Advertise, or indicate in promotional material, that the
16 institution is accredited, unless the institution has been accredited
17 by an accrediting agency.

18 (f) Solicit students for enrollment by causing an advertisement
19 to be published in “help wanted” columns in a magazine,
20 newspaper, or publication, or use “blind” advertising that fails to
21 identify the institution.

22 (g) Offer to compensate a student to act as an agent of the
23 institution with regard to the solicitation, referral, or recruitment
24 of any person for enrollment in the institution, except that an
25 institution may award a token gift to a student for referring an
26 individual, provided that the gift is not in the form of money, no
27 more than one gift is provided annually to a student, and the gift’s
28 cost is not more than one hundred dollars (\$100).

29 (h) Pay any consideration to a person to induce that person to
30 sign an enrollment agreement for an educational program.

31 (i) Use a name in a manner improperly implying any of the
32 following:

33 (1) The institution is affiliated with a government agency, public
34 or private corporation, agency, or association if it is not, in fact,
35 thus affiliated.

36 (2) The institution is a public institution.

37 (3) The institution grants degrees, if the institution does not
38 grant degrees.

39 (j) In any manner make an untrue or misleading change in, or
40 untrue or misleading statement related to, a test score, grade or

1 record of grades, attendance record, record indicating student
2 completion, placement, employment, salaries, or financial
3 information, including any of the following:

4 (1) A financial report filed with the bureau.

5 (2) Information or records relating to the student's eligibility
6 for student financial aid at the institution.

7 (3) Information or records relating to placement, employment,
8 salaries, or financial information relating to any occupation or job
9 described in subdivision (p).

10 (4) Any other record or document required by this chapter or
11 by the bureau.

12 (k) Willfully falsify, destroy, or conceal any document of record
13 while that document of record is required to be maintained by this
14 chapter.

15 (l) Use the terms "approval," "approved," "approval to operate,"
16 or "approved to operate" without stating clearly and conspicuously
17 that approval to operate means compliance with state standards as
18 set forth in this chapter. If the bureau has granted an institution
19 approval to operate, the institution may indicate that the institution
20 is "licensed" or "licensed to operate," but may not state or imply
21 either of the following:

22 (1) The institution or its educational programs are endorsed or
23 recommended by the state or by the bureau.

24 (2) The approval to operate indicates that the institution exceeds
25 minimum state standards as set forth in this chapter.

26 (m) Direct any individual to perform an act that violates this
27 chapter, to refrain from reporting unlawful conduct to the bureau
28 or another government agency, or to engage in any unfair act to
29 persuade a student not to complain to the bureau or another
30 government agency.

31 (n) Compensate an employee involved in recruitment,
32 enrollment, admissions, student attendance, or sales of educational
33 materials to students on the basis of a commission, commission
34 draw, bonus, quota, or other similar method related to the
35 recruitment, enrollment, admissions, student attendance, or sales
36 of educational materials to students, except as provided in
37 paragraph (1) or (2):

38 (1) If the educational program is scheduled to be completed in
39 90 days or less, the institution shall pay compensation related to

1 a particular student only if that student completes the educational
2 program.

3 (2) For institutions participating in the federal student financial
4 aid programs, this subdivision shall not prevent the payment of
5 compensation to those involved in recruitment, admissions, or the
6 award of financial aid if those payments are in conformity with
7 federal regulations governing an institution's participation in the
8 federal student financial aid programs.

9 (o) Require a prospective student to provide personal contact
10 information in order to obtain, from the institution's Internet Web
11 site, educational program information that is required to be
12 contained in the school catalog or any information required
13 pursuant to the consumer information requirements of Title IV of
14 the federal Higher Education Act of 1965, and any amendments
15 thereto.

16 (p) (1) Use a job or occupational name or description that
17 suggests or implies that the job or occupation is the same as, or
18 similar to, a job or occupation in an apprenticeable field in a
19 document relating to placement, employment, salaries, or financial
20 information, unless the information in the document pertains
21 exclusively to the placement, employment, salaries, or financial
22 information for a job or occupation that the Division of
23 Apprenticeship Standards of the Department of Industrial Relations
24 has approved as an apprenticeship program, and the job duties
25 meet all of the criteria for an apprenticeable job or occupation, as
26 set forth by the Division of Apprenticeship Standards of the
27 Department of Industrial Relations.

28 (2) Use a job or occupational name or description that suggests
29 or implies that the job or occupation is the same as, or similar to,
30 a job or occupation in a nursing field in a document relating to
31 placement, employment, salaries, or financial information, unless
32 the information in the document pertains exclusively to the
33 placement, employment, salaries, or financial information for a
34 job or occupation for which the Board of Registered Nursing has
35 established licensure requirements, and the job duties are within
36 the scope of the duties set forth in those licensure requirements.

37 SEC. 3. Section 94928 of the Education Code is amended to
38 read:

39 94928. As used in this article, the following terms have the
40 following meanings:

1 (a) “Cohort population” means the number of students that
2 began a program on a cohort start date.

3 (b) “Cohort start date” means the first class day after the
4 cancellation period during which a cohort of students attends class
5 for a specific program.

6 (c) “Graduates” means the number of students who complete a
7 program within 100 percent of the published program length. An
8 institution may separately state completion information for students
9 completing the program within 150 percent of the original
10 contracted time, but that information may not replace completion
11 information for students completing within the original scheduled
12 time. Completion information shall be separately stated for each
13 campus or branch of the institution.

14 (d) “Graduates available for employment” means the number
15 of graduates minus the number of graduates unavailable for
16 employment.

17 (e) (1) Except as provided in paragraphs (2) and (3), “graduates
18 employed in the field” means graduates who are gainfully
19 employed within six months of graduation in a position for which
20 the skills obtained through the education and training provided by
21 the institution are required or provided a significant advantage to
22 the graduate in obtaining the position.

23 (2) With respect to an occupation or job for which the Division
24 of Apprenticeship Standards of the Department of Industrial
25 Relations has approved a certified apprenticeship program,
26 “graduates employed in the field” means graduates who are
27 gainfully employed for not less than 60 days within six months of
28 graduation in a position with job duties meeting all of the criteria
29 of the apprenticeable occupation or job set forth by the Division
30 of Apprenticeship Standards.

31 (3) With respect to an occupation or job for which the Board of
32 Registered Nursing has established licensure requirements,
33 “graduates employed in the field” means graduates who are
34 gainfully employed for not less than 60 days within six months of
35 graduation in a position with job duties meeting all of the criteria
36 of the licensed occupation or job set forth by the Board of
37 Registered Nursing.

38 (f) “Graduates unavailable for employment” means graduates
39 who, after graduation, die, become incarcerated, are called to active
40 military duty, are international students that leave the United States

1 or do not have a visa allowing employment in the United States,
2 or are continuing their education at an accredited or
3 bureau-approved postsecondary institution.

4 (g) “Students available for graduation” means the cohort
5 population minus the number of students unavailable for
6 graduation.

7 (h) “Students unavailable for graduation” means students who
8 have died, been incarcerated, or called to active military duty.

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