AMENDED IN ASSEMBLY JULY 9, 2025

AMENDED IN ASSEMBLY JUNE 26, 2025

AMENDED IN SENATE MAY 6, 2025

AMENDED IN SENATE APRIL 10, 2025

SENATE BILL No. 790

Introduced by Senator Cabaldon
(Coauthor: Assembly Member Fong)

February 21, 2025

An act to amend Sections 94801.5, 94850.5, and 94897 of, and to add Chapter 11.1 (commencing with Section 66910) to Part 40 of Division 5 of Title 3 of, the Education Code, relating to postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

SB 790, as amended, Cabaldon. Postsecondary education: interstate reciprocity agreements for distance education: out-of-state postsecondary educational institutions.

(1) Existing federal law requires a postsecondary educational institution that offers distance education to students located in a state in which the postsecondary educational institution is not physically located to meet any of that state's requirements for it to offer distance education in that state. Existing federal law authorizes a state to participate in an interstate reciprocity agreement to comply with this requirement.

This bill would authorize the ~~Governor~~ *Governor, on or before January 1, 2028,* to enter into one or more interstate reciprocity agreements for distance education through a compact on behalf of the state upon issuing certain written findings and after certain committees of the Legislature hold a joint hearing on the agreement, as provided. This bill would require the Governor to designate a state agency, department, or office for the implementation of an interstate reciprocity agreement for distance education if the Governor enters into such an agreement, as provided. The bill would authorize postsecondary educational institutions to apply to the designated entity for approval to operate under an interstate reciprocity agreement, as specified.

(2) The California Private Postsecondary Education Act of 2009 provides, among other things, for student protections and regulatory oversight of private postsecondary institutions in the state. The act is enforced by the Bureau for Private Postsecondary Education within the Department of Consumer Affairs. The act requires an out-of-state private postsecondary educational institution to register with the bureau, pay a fee, and comply with additional delineated requirements. Existing law provides exemptions from the act for, among others, accredited, degree-granting, nonprofit, higher education institutions and degree-granting public higher education institutions.

~~Beginning January 1, 2028,~~

If the Governor enters into an interstate reciprocity agreement, this bill would subject any ~~public or private entity without a physical presence in this state that offers a degree program through distance education to California students~~ *accredited, degree-granting, nonprofit, higher education institutions and degree-granting public higher education institutions* to the act unless the entity is approved pursuant to an interstate reciprocity agreement.

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

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

SECTION 1. Chapter 11.1 (commencing with Section 66910) is added to Part 40 of Division 5 of Title 3 of the Education Code, to read:

Chapter 11.1. Administration of State Postsecondary Education Programs and Interstate Authorization

Article 1. General Provisions

66910. For purposes of this chapter, the following definitions apply:

(a) “Commission” means the Western Interstate Commission for Higher Education, including the Western State Authorization Reciprocity Agreement steering ~~committee of the commission,~~ *committee*, or another group of states or United States territories organized in an interstate reciprocity agreement.

(b) “Interstate reciprocity agreement” means an interstate reciprocity agreement for the authorization and oversight of distance education.

(c) “National coordinating council” means the National Council for State Authorization Reciprocity Agreements, or its successor.

(d) “Participating institution” means an institution of higher education with a physical presence in the state that has been approved to operate under an interstate reciprocity agreement.

(e) “Portal entity” means the agency, department, or office designated pursuant to Section 66911.

Article 2. Education Coordination and Program Operations

66911. The Governor shall designate a state agency, department, or office for the implementation of an interstate reciprocity agreement, to serve as the portal entity if the Governor enters into an interstate reciprocity agreement pursuant to Section 66920.

Article 3. State Authorization Reciprocity Agreement for Distance Education

66920. ~~The~~ *On or before January 1, 2028, the* Governor may enter into one or more interstate reciprocity agreements through a compact on behalf of the state, upon completion of both of the following:

(a) Issuing a written finding of all of the following:

(1) The interstate reciprocity agreement and its implementation will not interfere with, and does not affect, the authority of the Attorney General or any other state or local agency to enforce any statutes or regulations prohibiting consumer fraud and unfair or deceptive business practices or the authority of the state to suspend or terminate the operation in the state of any entity subject to the interstate reciprocity agreement pursuant to state law.

(2) The interstate reciprocity agreement does not prevent the Attorney General or any other state or local agency from applying and enforcing Section 94897 with respect to out-of-state postsecondary educational institutions that participate in the reciprocity agreement.

(3) The interstate reciprocity agreement allows the state, notwithstanding any reciprocal authorization, to require an out-of-state postsecondary educational institution, upon providing notice of at least ~~six~~ *three* months, to register and be subject to the provisions of Section 94801.5, in order to protect students, prevent misrepresentation to the public, or prevent the loss of funds paid from public resources or student tuition.

(4) The interstate reciprocity agreement does not apply to a course offered onsite to students at a military installation in the state, even if the course at that physical location is offered to students in other locations.

~~(5) The commission and national coordinating council are committed to preserving standards and protections that have been promulgated by the federal government and are the basis of the interstate reciprocity agreement, even if those standards or protections are subsequently diminished or withdrawn by federal law or action of the United States Department of Education, and the commission is committed to developing meaningful performance metrics and frameworks for best practices with regard to individual state authorization activities.~~

~~(6)~~

(5) Within one year of the effective date of the state’s entry into the interstate reciprocity agreement, the Bureau for Private Postsecondary Education will establish a process to ensure that postsecondary educational institutions *that are* exempt from the California Private Postsecondary Education Act of 2009 (Chapter 8 (commencing with Section 94800) of Part 59 of Division 10) pursuant to Section ~~94874,~~ *94874 and exempt from Section 94801.5*

pursuant to subdivision (c) of that section may participate in the interstate reciprocity agreement without impacting the postsecondary educational institution's exempt status.

~~(7)~~

(6) Participating states have the necessary authority and resources to investigate complaints and take appropriate action.

~~(8)~~

(7) The reciprocity agreement does not prohibit the state from accepting complaints from California students that have not first been submitted to the institution that is the subject of the complaint.

~~(9)~~

(8) The interstate reciprocity agreement does not delegate independent legal authority over the state or its participating postsecondary educational institutions to any other entity or otherwise authorize assumption of that legal authority by any other entity other than the state or its subdivisions, including by providing any nonstate entity with the authority to reverse or veto a decision by the state to suspend or terminate an in-state's institution's certification to participate in a reciprocity agreement.

~~(10)~~

(9) The interstate reciprocity agreement may be modified ~~by the commission~~ only with the approval of the Governor.

(b) ~~After issuing~~ *Following a period of no fewer than 30 days after* the findings required by subdivision ~~(a),~~ *(a) are issued, during which time the public may provide written public comment to the Governor,* a joint hearing on the agreement held by the Assembly Committee on Business and Professions, the Assembly Committee on Higher Education, the Senate Committee on Business, Professions and Economic Development, and the Senate Committee on Education at which a representative from the ~~commission~~ *commission, or the governing body of an alternative interstate reciprocity agreement,* shall testify and members of the public shall be encouraged to testify on the agreement and the Governor's written findings.

66921. (a) A postsecondary educational institution may apply to the portal entity for approval to operate under an interstate reciprocity agreement using a standard application developed pursuant to the interstate reciprocity agreement.

(b) The portal entity may establish a reasonable fee to be paid by a participating postsecondary educational institution. The amount of the fee shall be limited to the reasonable regulatory costs incurred by the portal entity in administering this chapter.

66922. (a) (1) The portal entity shall enter into a memorandum of understanding with the Chancellor of the California State University, the Chancellor of the California Community Colleges, the presidents of the independent California colleges and universities as represented by the state association representing the largest number of those members, and, if appropriate, the Bureau for Private Postsecondary Education.

(2) Upon resolution of the Regents of the University of California, the portal entity shall enter into a memorandum of understanding with the President of the University of California.

(3) A memorandum of understanding executed pursuant to this subdivision shall delegate functions and responsibilities among the parties and provide for reimbursement of expenses. The memorandum of understanding shall not weaken existing student privacy and confidentiality protections.

(b) The Board of Governors of the California Community Colleges shall investigate and resolve complaints involving participating community colleges that may arise pursuant to the interstate reciprocity agreement.

(c) The Bureau for Private Postsecondary Education shall investigate and resolve complaints that may arise pursuant to the interstate reciprocity agreement involving participating private postsecondary educational institutions that are either of the following:

(1) Approved to operate pursuant to Section 94886 or 94874.8.

(2) Exempt from the California Private Postsecondary Education Act of 2009 (Chapter 8 (commencing with Section 94800) of Part 59 of Division 10) pursuant to Section ~~94874,~~ *94874 and exempt from Section 94801.5 pursuant to subdivision (c) of that section,* but elect to participate in the interstate reciprocity agreement pursuant to terms and conditions established by the Bureau for Private Postsecondary Education to implement the memorandum of ~~understanding~~ *understanding, as required by subdivision (a),* and this chapter.

66923. (a) The portal entity shall ensure that it and participating postsecondary educational institutions have clear and well-documented policies for addressing catastrophic events in a manner that protects students as consumers, including the protection of student records. The California Private Postsecondary Education Act of 2009 (Chapter 8 (commencing with Section 94800) of Part 59 of Division 10), and regulations adopted pursuant to that act, shall constitute those policies for participating private postsecondary educational institutions approved to operate by the Bureau for Private Postsecondary Education.

(b) The portal entity shall work cooperatively with other states in the interstate reciprocity agreement and the ~~commission~~ *commission, or the governing body of an alternative interstate reciprocity agreement,* to enable the success of the interstate reciprocity agreement. Each entity identified in subdivision (a) of Section 66922 shall document all formal complaints received, complaint notifications provided to participating postsecondary educational institutions and accrediting agencies, actions taken that are commensurate with the severity of the violations, and complaint resolutions. Each entity identified in subdivision (a) of Section 66922 shall promptly report a complaint or concern to the postsecondary educational institution, the portal entity, and, where appropriate, the accrediting agency.

SEC. 2. Section 94801.5 of the Education Code is amended to read:

94801.5. (a) An out-of-state postsecondary educational institution shall register with the bureau, pay a fee pursuant to Section 94930.5, and comply with all of the following:

(1) The institution shall provide the bureau with all of the following information, as applicable, for consideration of initial registration by the bureau pursuant to paragraph (2).

(A) Evidence of institutional accreditation.

(B) Evidence that the institution is approved to operate in the state where the institution maintains its main administrative location.

(C) The agent for service of process consistent with Section 94943.5.

(D) A copy of the institution's catalog and, if the institution uses enrollment agreements, a copy of a sample enrollment agreement.

(E) Whether or not the institution, or a predecessor institution under substantially the same control or ownership, had its authorization or approval revoked or suspended by a state or by the federal government, or, within five years before submission of the registration, was subject to an enforcement action by a state or by the federal government that resulted in the imposition of limits on enrollment or student aid, or is subject to such an action that is not final and that was ongoing at the time of submission of the registration.

(F) Whether or not the institution, or a controlling officer of, or a controlling interest or controlling investor in, the institution or in the parent entity of the institution, had been subject to any education, consumer protection, unfair business practice, fraud, or related enforcement action, including, but not limited to, an investigation resolved via a settlement agreement, by a state or federal agency within five years before submitting the registration. If so, the institution shall provide the bureau a copy of the operative complaint or settlement agreement with the registration.

(G) Whether or not the institution is currently on probation, show cause, or subject to other adverse action, or the equivalent thereof, by its accreditor or has had its accreditation revoked or suspended within the five years before submitting the registration.

(H) Whether or not the institution, within five years before submitting the registration, has settled, or been adjudged to have liability for, a civil complaint alleging the institution's failure to provide educational services, including a complaint alleging a violation of Title IX of the federal Education Amendments of 1972 (Public Law 92-318) or a similar state law, or a complaint alleging a violation of a law concerning consumer protection, unfair business practice, or fraud, filed by a student or former student, an employee or former employee, or a public official, for more than two hundred fifty thousand dollars ($250,000). The institution shall provide the bureau a copy of the complaint filed by the plaintiff and a copy of the judgment or settlement agreement for any such judgment or settlement, and the bureau shall consider, pursuant to paragraph (2), all material terms and aspects of the settlement, including, for example, whether a student plaintiff remained enrolled or reenrolled at the institution.

(I) Any additional documentation the bureau deems necessary for consideration in the registration process.

(2) When considering whether to approve, deny, or condition initial registration based upon the information provided by an institution pursuant to paragraph (1), the bureau shall do all of the following:

(A) Not consider any individual submission made under paragraph (1) to be solely determinative of the institution's eligibility for registration but, exercising its reasonable discretion, approve, reject, or condition registration based upon a review of all of the information provided to it under paragraph (1).

(B) Provide an institution with reasonable notice and opportunity to comment before the bureau regarding any determination to deny, condition, or reject initial registration before that determination becomes final. After the determination becomes final, the institution may seek review of the bureau's decision through an action brought pursuant to Section 1085 of the Code of Civil Procedure.

(C) Require the initial registration, if approved, to memorialize that the institution agrees, as a condition of its registration, to be bound by this section and that its registration may be rejected, conditioned, or revoked for failure to comply with this section, as provided by subdivision (b). The agreement shall be signed by a responsible officer of the institution.

(3) An institution that is registered with the bureau and enrolls a student residing in California shall report in writing to the bureau, within 30 days, the occurrence of any of the following:

(A) The institution has its authorization or approval revoked or suspended by a state or by the federal government, or has been subject to an enforcement action by a state or by the federal government that resulted in the imposition of limits on enrollment or student aid.

(B) The institution or a controlling officer of, or a controlling interest or controlling investor in, the institution or in the parent entity of the institution is subject to any education, consumer protection, unfair business practice, fraud, or related enforcement action, including, but not limited to, an investigation resolved via a settlement agreement, by a state or federal agency. If so, the institution shall provide the bureau a copy of the operative complaint or settlement agreement.

(C) The institution is currently on probation, show cause, or subject to other adverse action, or the equivalent thereof, by its accreditor or the accreditation of the institution is revoked or suspended.

(D) The institution settles, or is adjudged to have liability for, a civil complaint alleging the institution's failure to provide educational services, including a complaint alleging a violation of Title IX of the federal Education Amendments of 1972 (Public Law 92-318) or a similar state law, or a complaint alleging a violation of a law concerning consumer protection, unfair business practice, or fraud, filed by a student or former student, an employee or former employee, or a public official, for more than two hundred fifty thousand dollars ($250,000). The institution shall provide to the bureau a copy of the complaint filed by the plaintiff and a copy of the judgment or settlement agreement for any such judgment or settlement, and the bureau shall consider, pursuant to subdivision (b), all material terms and aspects of the settlement, including, for example, whether a student plaintiff remained enrolled or reenrolled at the institution.

(4) The requirements of the Student Tuition Recovery Fund, established in Article 14 (commencing with Section 94923), and regulations adopted by the bureau related to the fund, for its students residing in California.

(5) The institution shall provide disclosures pursuant to the requirements for the Student Tuition Recovery Fund, established in Article 14 (commencing with Section 94923), and regulations adopted by the bureau related to the fund, for its students residing in California.

(b) (1) After receipt of any of the notifications in paragraph (3) of subdivision (a),~~ or~~ after determining that such notification should have been provided, *or in response to a complaint received through the email address disclosed pursuant to subdivision (g),* the bureau may seek additional information and shall notify the institution regarding whether the institution shall suspend enrolling new students, and whether other actions are needed to protect California residents while the bureau continues to investigate.

(2) Any institution under review pursuant to paragraph (1) may have its registration revoked by the bureau if, after further review, the bureau issues a written finding that there is a substantial risk posed to California residents by the institution continuing to enroll California residents.

(3) An institution shall have the right to reasonable notice and opportunity to comment to and before the bureau regarding any determination to revoke registration or to limit enrollment before that determination becomes final. An institution may seek review of a bureau order limiting new student enrollment or revoking

registration under this subdivision through an action brought pursuant to Section 1085 of the Code of Civil Procedure.

(4) Nothing in this subdivision shall be construed as preventing the bureau from revoking an institution's registration on any other grounds specified in this chapter. Nothing in this section shall be construed as prohibiting or impairing the ability of an institution registered pursuant to this section or eligible to register pursuant to this section from applying to be an approved institution pursuant to this chapter.

(c) (1) (A) ~~Before January 1, 2028, this~~ *This* section shall not apply to a higher education institution that grants undergraduate degrees, graduate degrees, or both, and that is either formed as a nonprofit corporation and is accredited by an agency recognized by the United States Department of Education, or is a public institution of higher education.

(B) ~~Beginning January 1, 2028, this section shall not apply to a public or nonprofit higher education institution approved pursuant to~~ *Notwithstanding subparagraph (A), if the Governor enters into* an interstate reciprocity agreement ~~to which the state is a party~~ pursuant to Article 3 (commencing with Section 66920) of Chapter 11.1 of Part 40 of Division ~~5.~~ *5, a higher education institution that grants undergraduate degrees, graduate degrees, or both, and that is either formed as a nonprofit corporation and is accredited by an agency recognized by the United States Department of Education, or is a public institution of higher education shall be exempt from this section only if the higher education institution is approved pursuant to the interstate reciprocity agreement.*

(2) This section does not apply to a higher education institution that does not award degrees and that solely provides educational programs for total charges of two thousand five hundred dollars ($2,500) or less when no part of the total charges is paid from state or federal student financial aid programs. The bureau may adjust this charge threshold based upon the California Consumer Price Index and post notification of the adjusted charge threshold on its internet website as the bureau determines, through the promulgation of regulations, that the adjustment is consistent with the intent of this chapter.

(d) An institution described in subdivision (a) that fails to comply with this section shall not operate in this state. Any institution whose registration is denied or revoked may reapply for registration after 12 months have elapsed from the date of the denial or revocation of registration.

(e) A registration with the bureau pursuant to this section shall be valid for five years.

(f) The bureau shall develop through emergency regulations effective on and after July 1, 2021, a registration form. The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare for purposes of Sections 11346.1 and 11349.6 of the Government Code. These emergency regulations shall become law through the regular rulemaking process by January 1, 2022.

(g) The bureau shall disclose on its internet website a list of institutions registered pursuant to this section through reasonable means and disclose a designated email address for California residents to send a complaint to the bureau about an institution registered pursuant to this section. Complaints received through this email address shall be investigated in the same manner as complaints received by the bureau for institutions approved to operate pursuant to this chapter, but bureau enforcement in response to such complaints against institutions registered pursuant to this section shall be governed by subdivision (b).

SEC. 3. Section 94850.5 of the Education Code is amended to read:

94850.5. "Out-of-state postsecondary educational institution" means a public or private entity without a physical presence in this state that offers distance education to California students for an institutional charge, regardless of whether the institution has affiliated institutions or institutional locations in California.

SEC. 4. Section 94897 of the Education Code is amended to read:

94897. An institution, including an out-of-state postsecondary educational institution, shall not do any of the following:

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

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

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

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

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

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

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

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

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

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

(2) The institution is a public institution.

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

(j) In any manner make an untrue or misleading change in, or untrue or misleading statement related to: a test score, grade or record of grades, attendance record, record indicating student completion, placement, employment, salaries, or financial information; a financial report filed with the bureau; information or records relating to the student's eligibility for student financial aid at the institution; or any other record or document required by this chapter or by the bureau.

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

(*l*) Use the terms "approval," "approved," "approval to operate," or "approved to operate" without stating clearly and conspicuously that approval to operate means compliance with state standards as set forth in this chapter. An institution shall not state or imply either of the following:

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

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

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

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

(1) If the educational program is scheduled to be completed in 90 days or less, the institution shall pay compensation related to a particular student only if that student completes the educational program.

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

(o) Require a prospective student to provide personal contact information in order to obtain, from the institution's internet website, educational program information that is required to be contained in the school catalog or any information required pursuant to the consumer information requirements of Title IV of the federal Higher Education Act of 1965, and any amendments thereto.

(p) Offer an associate, baccalaureate, master's, or doctoral degree without disclosing to prospective students before enrollment whether the institution or the degree program is unaccredited and any known limitation of the degree, including, but not limited to, all of the following:

(1) Whether a graduate of the degree program will be eligible to sit for the applicable licensure exam in California and other states.

(2) A statement that reads: "A degree program that is unaccredited or a degree from an unaccredited institution is not recognized for some employment positions, including, but not limited to, positions with the State of California."

(3) That a student enrolled in an unaccredited institution is not eligible for federal financial aid programs.

(q) In any manner commit fraud against, or make a material untrue or misleading statement to, a student or prospective student under the institution's authority or the pretense or appearance of the institution's authority.

(r) Charge or collect any payment for institutional charges that are not authorized by an executed enrollment agreement.

(s) Violate Section 1788.93 of the Civil Code.

(t) Require a prospective, current, or former student or employee to sign a nondisclosure agreement pertaining to their relationship to, or experience with, the institution, except that an institution may use a nondisclosure agreement to protect the institution's intellectual property and trade secrets. Any nondisclosure agreement in violation of this section is void and not enforceable at law or in equity.

(u) Fail to maintain policies related to compliance with this chapter or adhere to the institution's stated policies.

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