

1 SENATE BILL 306

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026**

3 INTRODUCED BY

4 Nicole Tobiassen and Brian G. Baca

10 AN ACT

11 RELATING TO HIGHER EDUCATION; ELIMINATING THE DISTINCTION
12 BETWEEN REGIONALLY AND NONREGIONALLY ACCREDITED INSTITUTIONS;
13 CHANGING LANGUAGE FROM "REGISTRATION" TO "LICENSURE".

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 **SECTION 1.** Section 21-23-3 NMSA 1978 (being Laws 1971,
17 Chapter 303, Section 3, as amended) is amended to read:

18 "21-23-3. DEFINITIONS.--As used in the Post-Secondary
19 Educational Institution Act:

20 A. "career school" means a non-accredited private
21 post-secondary educational institution offering a formal
22 educational curriculum in New Mexico for a fee to members of
23 the general public beyond compulsory school age, terminating in
24 a certificate or diploma [~~associate degree~~] or comparable
25 confirmation of completion of the curriculum;

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1 B. "college" or "university" means [a] an
2 accredited private post-secondary educational institution
3 offering a formal educational curriculum in New Mexico for a
4 fee to members of the general public beyond compulsory school
5 age, terminating in [a] an associate, a baccalaureate, a
6 master's or a doctoral degree or comparable confirmation of
7 completion of the curriculum;

8 C. "department" means the higher education
9 department;

10 D. "enrollment agreement" means an agreement,
11 instrument or note executed before a person begins coursework
12 that creates a binding obligation between the person and the
13 post-secondary educational institution;

14 E. "license" means a written acknowledgment by the
15 department that a ~~career school or nonregionally accredited~~
16 ~~college or university~~ private post-secondary educational
17 institution has met the requirements of the department for
18 offering a formal educational curriculum within New Mexico;

19 F. "post-secondary educational institution"
20 includes an academic, vocational, technical, business,
21 professional or other school, college or university or other
22 organization or person offering or purporting to offer courses,
23 instruction, training or education from a physical site in New
24 Mexico, through distance education, correspondence or in
25 person;

1 G. "private post-secondary educational institution"
2 means a nonpublicly funded post-secondary educational
3 institution that offers post-secondary education for a fee to
4 members of the general public; and

5 H. "prospective student" means a person who
6 demonstrates interest in signing an enrollment agreement with a
7 private post-secondary educational institution [and

8 I. ~~"registration" means a written acknowledgment by~~
9 ~~the department that a regionally accredited college or~~
10 ~~university has filed pertinent curriculum and enrollment~~
11 ~~information, as required by the department, and is authorized~~
12 ~~to operate a private post-secondary educational institution]."~~

13 SECTION 2. Section 21-23-5 NMSA 1978 (being Laws 1994,
14 Chapter 108, Section 6, as amended) is amended to read:

15 "21-23-5. DUTIES OF THE DEPARTMENT.--

16 A. The department is charged with oversight of all
17 private post-secondary educational institutions operating
18 within the state.

19 B. The department shall provide for the
20 ~~[registration] licensure of all [regionally accredited colleges~~
21 ~~and universities] private post-secondary educational~~
22 ~~institutions~~ operating in the state pursuant to the Post-
23 Secondary Educational Institution Act.

24 C. ~~The department shall provide for the licensure~~
25 ~~of all career schools and all nonregionally accredited colleges~~

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1 and universities operating in the state pursuant to the Post-
2 Secondary Educational Institution Act.]"

3 SECTION 3. Section 21-23-6 NMSA 1978 (being Laws 1994,
4 Chapter 108, Section 7, as amended) is amended to read:

5 "21-23-6. [REGISTRATION OF COLLEGES AND UNIVERSITIES]
6 LICENSEURE OF PRIVATE POST-SECONDARY EDUCATIONAL
7 INSTITUTIONS--SUBMISSION OF MATERIALS.--

8 [A. Every college or university operating in New
9 Mexico that is regionally accredited or seeking regional
10 accreditation by an accrediting agency approved by the
11 department shall register with the department.

12 B.] A. A [college or university registering with]
13 private post-secondary educational institution seeking
14 licensure by the department pursuant to this section shall
15 provide curriculum and enrollment information, financial
16 information and all publication materials requested by the
17 department.

18 C.] B. A [college or university registering with]
19 private post-secondary educational institution licensed by the
20 department shall adopt a procedure for the resolution of
21 student complaints.

22 D.] A college's or university's registration is
23 valid for the same period as its grant of regional
24 accreditation from its accrediting agency.]"

25 SECTION 4. Section 21-23-6.1 NMSA 1978 (being Laws 1994,
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1 Chapter 108, Section 8, as amended) is amended to read:

2 "21-23-6.1. LICENSURE OF [CAREER SCHOOLS LICENSURE OF
3 CERTAIN COLLEGES AND UNIVERSITIES] PRIVATE POST-SECONDARY
4 EDUCATIONAL INSTITUTIONS.--

5 A. A [career school or nonregionally accredited
6 college or university] private post-secondary educational
7 institution operating in New Mexico shall be licensed by the
8 department. It is unlawful to operate a [career school or
9 nonregionally accredited college or university] private
10 post-secondary educational institution without first obtaining
11 a license from the department.

12 [B. A college or university operating in New Mexico
13 that is not regionally accredited or is not seeking regional
14 accreditation by an accrediting agency approved by the
15 department shall be licensed by the department in the manner
16 provided for career schools or other nonregionally accredited
17 colleges or universities. It is unlawful to operate a college
18 or university that is not accredited or seeking accreditation
19 by an accrediting agency approved by the department without
20 first obtaining a license from the department.

21 C.] B. No person other than an employee of [an] a
22 private post-secondary educational institution licensed
23 pursuant to this section shall, for a salary or fee, solicit
24 attendance at that institution."

25 SECTION 5. Section 21-23-6.2 NMSA 1978 (being Laws 1994,
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1 Chapter 108, Section 9, as amended) is amended to read:

2 "21-23-6.2. LICENSURE STANDARDS--REQUIREMENTS--FEE

3 AUTHORIZATION.--

4 A. Every ~~[career school and nonregionally accredited college and university]~~ private post-secondary educational institution operating in the state shall annually apply to the department for licensure. The ~~[career school and nonregionally accredited college or university]~~ institution shall apply on forms approved by the department, shall supply all information requested by the department and shall pay an annual licensure fee set by the department.

5 B. The department or its designee shall consider information submitted by the ~~[career school and nonregionally accredited college or university]~~ private post-secondary educational institution, information from independent accreditation bodies and information gathered during visits to the ~~[career school and nonregionally accredited college or university]~~ institution in determining eligibility for licensure.

6 C. The department shall promulgate and file, in accordance with the State Rules Act, rules that:

7 (1) require each ~~[career school and nonregionally accredited college and university]~~ private post-secondary educational institution to supply annually information regarding enrollment, program completion by

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1 students, employment and other educational placements of
2 students and operating revenue budgets;

3 (2) provide standards and methods for the
4 evaluation and appraisal of ~~[career schools and nonregionally~~
5 ~~accredited colleges and universities]~~ institutions;

6 (3) provide for a tuition refund policy;

7 (4) require maintenance of adequate records by
8 each ~~[career school and nonregionally accredited college and~~
9 ~~university]~~ institution and provide reasonable availability of
10 records for inspection;

11 (5) regulate the use of deceptive and
12 misleading advertising and determine what information shall be
13 furnished to each student prior to enrollment;

14 (6) assure that any ~~[career school or~~
15 ~~nonregionally accredited college or university]~~ institution
16 licensed pursuant to the Post-Secondary Educational Institution
17 Act has entered into a teach-out agreement with at least one
18 other private or public institution operating in the state
19 unless the department determines that such an agreement is not
20 feasible;

21 (7) provide standards for the award of
22 associate, baccalaureate, master's and doctoral degrees;

23 (8) require all degree-granting ~~[schools]~~
24 institutions to seek appropriate external accreditation by an
25 agency recognized by the federal department of education as a

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means of assuring quality instruction;

(9) name an advisory committee of education providers and consumers, including owners and operators of [career schools and nonregionally accredited colleges and universities] private post-secondary educational institutions;

(10) provide for the maintenance of records for [career schools and nonregionally accredited colleges and universities] institutions no longer in operation;

(11) provide standards for the evaluation of the financial stability and ability to meet the commitments of [career schools and nonregionally accredited colleges and universities] the institutions;

(12) require each [career school and nonregionally accredited college and university] institution to adopt a procedure for the resolution of student complaints; and

(13) establish other requirements necessary to carry out the provisions of the Post-Secondary Educational Institution Act.

D. The department may solicit information pertaining to the financial history and stability of a [career school or nonregionally accredited college or university] private post-secondary educational institution and its owners, including information pertaining to actions of bankruptcy filed within the immediately preceding five years. The department may consider such information in determining eligibility for

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1 licensure."

2 **SECTION 6.** Section 21-23-6.3 NMSA 1978 (being Laws 1994,
3 Chapter 108, Section 10, as amended) is amended to read:

4 **"21-23-6.3. FEE AUTHORIZATION.--**

5 A. The department may establish initial application
6 fees for all colleges, universities or career schools seeking
7 to operate in New Mexico. The initial application fee shall be
8 not less than two hundred dollars (\$200) or more than five
9 thousand dollars (\$5,000). In setting the fee, the department
10 shall consider the projected revenue of the institution and the
11 projected cost of performing the review.

12 B. The department may establish an annual licensing
13 fee for all ~~career schools or nonregionally accredited~~
14 ~~colleges or universities~~ private post-secondary educational
15 institutions licensed by the department. The licensing fee
16 shall be proportionate to each school's gross annual tuition
17 revenue; provided the fee shall be not less than two hundred
18 dollars (\$200) or more than five thousand dollars (\$5,000).

19 C. The department may charge a reasonable
20 administrative fee not to exceed the actual cost of providing
21 the administrative service.

22 D. All fees imposed and collected by the department
23 shall be deposited in the post-secondary educational
24 institution fund."

25 **SECTION 7.** Section 21-23-7 NMSA 1978 (being Laws 1971,
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1 Chapter 303, Section 7, as amended) is amended to read:

2 "21-23-7. CLAIMS--LIMITATIONS--APPEALS.--

3 A. Any person having a claim against a [college,
4 ~~university or career school registered or~~] private post-
5 secondary educational institution licensed by the department or
6 that [college's, university's or career school's] institution's
7 agents, instructors or other personnel shall first seek
8 resolution of the claim with the [college, university or career
9 school] institution; thereafter, a person may file a verified
10 complaint with the department, setting forth the basis of the
11 claim and the name and address of the [college, university or
12 career school] institution complained against and any other
13 persons involved or having knowledge of the claim. All claims
14 shall be limited to the amount of tuition actually paid or to
15 any charge or fee received by the [college, university or
16 career school] institution or its agents or employees.

17 B. Upon the receipt of a verified complaint, the
18 department or its authorized employee shall attempt to resolve
19 the claim outlined in the complaint. The department or its
20 authorized employee may convene a hearing and shall give
21 written notice to the [college, university or career school]
22 private post-secondary educational institution and to all
23 persons involved of the hearing and its time, date and place.
24 The notice shall state that the hearing is an informal one for
25 the purpose of determining the facts surrounding the claim and,

1 if the claim is correct, to effect a settlement by persuasion
2 and conciliation.

3 C. In the event that the party complained against
4 refuses to attend the hearing or effect the settlement of any
5 claim determined by the department to be correct, the
6 department shall invoke its powers to take such action as shall
7 be necessary for the indemnification of the claimant.

8 D. Any person aggrieved by a final department
9 decision ~~[rendered subsequent to a claim hearing may appeal to~~
~~the district court in the judicial district in which the~~
~~hearing was conducted. The appeal shall be based upon the~~
~~record established at the claim hearing] may appeal as provided~~
~~in Section 39-3-1.1 NMSA 1978."~~

14 SECTION 8. Section 21-23-7.1 NMSA 1978 (being Laws 1994,
15 Chapter 108, Section 12, as amended) is amended to read:

16 "21-23-7.1. SURETY BOND REQUIRED--ALTERNATIVE SURETY.--

17 A. A ~~[college, university or career school~~
~~registered or] private post-secondary educational institution~~
18 licensed by the department shall post with the department and
19 maintain in effect a surety bond. The bond shall be payable to
20 the department and shall be sufficient in amount to indemnify
21 any student damaged as a result of fraud or misrepresentation
22 by a ~~registered or] licensed [college, university or career~~
~~school] institution or as a result of the [college, university~~
~~or career school] institution ceasing operation prior to its~~

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1 students having completed the programs for which they have
2 contracted.

3 B. The department is authorized to establish the
4 amount of bond required on an individual basis, taking into
5 consideration factors such as the [college's, university's or
6 career school's] private post-secondary educational
7 institution's size, number of students and total income and
8 assets of the [college, university or career school]
9 institution in the state. In no case shall the bond be less
10 than five thousand dollars (\$5,000) nor shall it exceed twenty
11 percent of [a college's, university's or career school's] an
12 institution's gross annual tuition revenue in New Mexico.

13 C. Surety bonds may be canceled only following
14 delivery of written notice to the department no less than
15 ninety days prior to the date of cancellation. In case of
16 cancellation, the [college, university or career school]
17 private post-secondary educational institution shall provide
18 the department with a like surety or acceptable alternative in
19 order to maintain licensure.

20 D. As an alternative to a surety bond, a [college,
21 university or career school] private post-secondary educational
22 institution may elect to and the department may require that [a
23 college, university or career school] an institution establish
24 and maintain a cash deposit escrow account, irrevocable letter
25 of credit or alternative payable to the department in an amount

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1 set by the department and subject to rules promulgated by the
2 department. In no case shall the deposit or account required
3 exceed twenty percent of the ~~college's, university's or career~~
4 ~~school's~~ institution's gross tuition annual revenue in New
5 Mexico."

6 SECTION 9. Section 21-23-10 NMSA 1978 (being Laws 1971,
7 Chapter 303, Section 9, as amended) is amended to read:

8 "21-23-10. DISCIPLINARY ACTIONS--CIVIL PENALTIES.--

9 A. A person shall not:

10 (1) ~~operate a [career school or nonregionally~~
11 ~~accredited college or university] private post-secondary~~
12 ~~educational institution~~ within the state until that school has
13 been licensed by the department;

14 ~~(2) operate a regionally accredited college~~
15 ~~or university within the state until that college or university~~
16 ~~has registered with the department;~~

17 ~~(3) (2) deny enrollment to or make any~~
18 ~~distinction or classification of students in the program or~~
19 ~~practices of any private post-secondary educational institution~~
20 ~~under the jurisdiction of the department on account of race,~~
21 ~~color, culture, ancestry, national origin, sex, age, religion~~
22 ~~or disability; or~~

23 ~~(4) (3) solicit, directly or through an~~
24 ~~agent or employee, the enrollment of any person in a private~~
25 ~~post-secondary educational institution within the state by the~~

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1 use of fraud, misrepresentation or collusion.

2 B. Whoever violates any provision of this section
3 may be assessed a civil penalty not to exceed five hundred
4 dollars (\$500) per day per violation. Civil penalties shall be
5 credited to the current school fund as provided in Article 12,
6 Section 4 of the constitution of New Mexico.

7 C. After an investigation, the department may take
8 any one or a combination of the following disciplinary actions
9 against a private post-secondary educational institution
10 [~~registered or~~] licensed in accordance with the Post-Secondary
11 Educational Institution Act:

12 (1) revoke a license, including if the
13 institution has had its accreditation revoked by its
14 accrediting agency;

15 [~~(2) revoke the registration, if the~~
16 ~~institution has had its regional accreditation revoked by its~~
17 ~~accrediting agency;~~

18 ~~(3)~~ (2) assess a civil penalty as provided in
19 Subsection B of this section; or

20 ~~(4)~~ (3) impose probation requirements."

21 SECTION 10. Section 21-23-11 NMSA 1978 (being Laws 1971,
22 Chapter 303, Section 10, as amended) is amended to read:

23 "21-23-11. EXISTING PRIVATE POST-SECONDARY EDUCATIONAL
24 INSTITUTIONS.--All private post-secondary educational
25 institutions existing prior to July 1, 1994 shall have ninety

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1 days to [register or to] apply for a license in accordance with
2 the terms of the Post-Secondary Educational Institution Act."

3 **SECTION 11.** Section 21-24-2 NMSA 1978 (being Laws 1971,
4 Chapter 304, Section 2, as amended) is amended to read:

5 "21-24-2. DEFINITIONS.--As used in the Out-of-State
6 Proprietary School Act:

7 [A. "course" means any course, plan or program of
8 instruction, conducted in person, by mail or by other methods;

9 B. "student" means any person within this state who
10 is above compulsory school age and eligible for one or more
11 courses of instruction;

12 C.] A. "agent" means [any] a person who solicits in
13 person and for a fee the enrollment of a student in a course of
14 instruction offered by a proprietary school;

15 B. "course" means any course, plan or program of
16 instruction, conducted in person, by mail or by other methods;

17 C. "department" means the higher education
18 department;

19 D. "license" means a written acknowledgment by the
20 department that a career school or accredited college or
21 university has met the requirements of the department for
22 offering a formal educational curriculum to New Mexico
23 students;

24 [D.] E. "proprietary school" means a nonpublic
25 out-of-state school, academy or similar institution offering

1 within New Mexico a course of instruction or training through
2 correspondence or similar methods or offering within New Mexico
3 a course of instruction or training to be conducted outside New
4 Mexico, but does not include a private out-of-state post-
5 secondary educational institution offering instruction or
6 training within New Mexico, to any student within this state;
7 and

8 [E. ~~"commission" means the commission on higher~~
9 ~~education]~~]

10 F. "student" means a person within New Mexico who
11 is above compulsory school age and eligible for one or more
12 courses of instruction."

13 SECTION 12. Section 21-24-4 NMSA 1978 (being Laws 1971,
14 Chapter 304, Section 4, as amended) is amended to read:

15 "21-24-4. PUBLICIZING OF INSTRUCTION.--[~~No~~] An agent
16 shall not:

17 A. make or cause to be made any statement or
18 representation, oral, written or visual, in connection with the
19 offering or publicizing of a course if the agent knows or
20 reasonably should know the statement or representation to be
21 false, deceptive, substantially inaccurate or misleading;

22 B. promise or guarantee employment [~~utilizing~~]
23 using information, training or skill purported to be provided
24 or otherwise enhanced by a course, unless the promisor or
25 guarantor offers the student or prospective student a bona fide

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contract of employment agreeing to employ the student or prospective student for a period of not less than ninety days in a business or other enterprise regularly conducted by [him] the promisor or guarantor in which such information, training or skill is a normal condition of employment; or

C. do any act constituting part of the conduct or administration of a course, or the obtaining of students [~~therefor~~] for a course, if the agent knows or reasonably should know that any phase or incident in the conduct or administration of the course is being carried on by the use of fraud, deception or other form of misrepresentation or by any agent soliciting students without a [registration] license."

SECTION 13. Section 21-24-5 NMSA 1978 (being Laws 1971, Chapter 304, Section 5, as amended) is amended to read:

"21-24-5. [REGISTRATION] LICENSURE--SURETY BOND--

A. No agent representing a proprietary school shall sell any course or solicit students in person or by mail, telephone or similar means in New Mexico for a consideration unless the institution [has registered with] is licensed by the [commission] department. The [commission] department shall charge an annual [registration] license fee of not less than five hundred dollars (\$500) for each proprietary school and an annual agent fee of not less than one hundred dollars (\$100) for each agent operating in New Mexico.

B. [Registration] A license application shall be

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1 made on forms provided by the [commission] department and
2 accompanied by the annual [registration] license fee.

3 C. The [registration] license application shall
4 include a surety bond acceptable to the [commission] department
5 in an amount not less than ten thousand dollars (\$10,000) or
6 more than twenty-five thousand dollars (\$25,000). The bond may
7 be continuous and shall be conditioned to provide
8 indemnification to any student suffering loss as a result of
9 any fraud or misrepresentation used in procuring [his] the
10 student's enrollment and shall be supplied by the proprietary
11 school. The surety may cancel the bond upon giving ninety
12 days' notice in writing to the [commission] department and
13 thereafter is relieved of liability for any breach of condition
14 occurring after the effective date of the cancellation.

15 D. [Registration] Licensure shall not be
16 permitted granted unless the applying proprietary school
17 agrees to adhere to the [commission] department rules [and
18 regulations] that provide for a tuition refund policy.

19 E. Upon ten days' notice, [any registration] a
20 license may be suspended by the [commission] department pending
21 a hearing by the [commission] department if the [registrant]
22 licensee solicits or enrolls students through fraud, deception
23 or misrepresentation.

24 F. [Registration] A license shall be valid for one
25 year, from July 1 through June 30. An application for renewal

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1 shall be accompanied by the fee and shall include a surety bond
2 if a continuous bond has not been furnished.

3 G. The existence of a surety bond shall not be
4 construed as a limitation or impairment of any right of
5 recovery otherwise available, nor shall the amount of the bond
6 be relevant in determining the amount of damages or other
7 relief to which a plaintiff may be entitled.

8 H. No recovery shall be had by a proprietary school
9 on any contract for or in connection with a course unless the
10 proprietary school had ~~registered~~ been licensed at the time
11 that its agent sold or negotiated the contract for the
12 particular course.

13 I. ~~Registration~~ Licensure shall not constitute
14 approval of any course, agent or proprietary school conducting
15 or administering courses. Any representation to the contrary
16 is a misrepresentation within the meaning of Section 21-24-4
17 NMSA 1978.

18 J. All fees collected from ~~registration~~ licensure
19 or renewal of ~~registration~~ licensure shall be deposited with
20 the state treasurer's office to the credit of the post-
21 secondary educational institution fund and shall be spent by
22 the ~~commission~~ department for the administration of the
23 Out-of-State Proprietary School Act."

24 SECTION 14. Section 21-24-8 NMSA 1978 (being Laws 1971,
25 Chapter 304, Section 8, as amended) is amended to read:

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1 "21-24-8. JUDICIAL REVIEW.--Any final determination of
2 the [commission] department respecting the issuance, denial or
3 revocation of a [registration] license may be appealed to the
4 district court pursuant to the provisions of Section 39-3-1.1
5 NMSA 1978."

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