



Disorderly School Closure

- I. Definitions
 - A. "Abrupt closure" means the cessation of operations by an institution before all students have completed their program or without the institution obtaining a teach-out agreement related to each program in which there are any students in the state who will not be able to complete the program before the date of closure.
 - B. "Institutional debt" means obligation or alleged obligation of a student to pay money to an institution of postsecondary education for course credit or other educational services, regardless of whether such obligation has been reduced to judgment.
 - C. "Institutional loan agreement" means any contract, promissory note, or other agreement in which a student agrees to pay an institutional debt to an institution of postsecondary education.
 - D. "Teach-out agreement" means a written agreement between institutions that provides for the equitable treatment of students and a reasonable opportunity for students to complete their program of study if an institution, or an institutional location that provides one hundred percent of at least one program offered, ceases to operate before all enrolled students have completed their program of study."
- II. This Act applies to a school or institution that is a:
 - A. Institution of postsecondary education that operates in the state; or
 - B. Institution of postsecondary education that enrolls residents of this state as students in a fully online distance education program in the state.
- III. An institutional loan agreement issued by a school or institution described under subsection (II) that is offered to any student in this state shall:
 - A. State the terms of repayment, including whether any interest will be charged and the repayment schedule.
 - B. State the amount of other debt known to the institution that the student has incurred or has agreed to incur to pay for course credit or educational



- services at the institution and clearly inform the student that the institutional debt is an additional debt.
- C. Include language ensuring that, upon the abrupt closure of the institution, the student shall no longer be required to pay back the institutional debt.
 - D. The provisions of this section apply to institution of higher education, as well as any assignee, purchaser, or other entity that obtains the right to collect upon the institutional debt.
- IV. The State Higher Education Department may authorize the Director, acting through the Attorney General, to seek an injunction or other judicial remedy for any violation of this title or of the rules and regulations adopted under this Act.
- V. Penalties
- A. If an institution of postsecondary education is required to have authorization from the State Higher Education Department and is operating without authorization, the Director of the State Higher Education Department may:
 - 1. Issue an order to cease and desist;
 - 2. Issue a notice of violation and impose a penalty of up to \$5,000; and
 - 3. Acting through the Attorney General, seek an injunction or other judicial remedy.
 - B. In imposing a penalty under this subsection, the Director of the State Higher Education Department shall consider:
 - 1. The seriousness of the violation;
 - 2. The harm caused by the violation;
 - 3. The good faith of the institution and any corrective actions taken;
 - 4. Any history of previous violations; and
 - 5. Other pertinent circumstances.
 - C. For any institution of postsecondary education required to have approval from the State Department of Higher Education before offering a program, if the institution offers an unapproved program, the Director of the State



Department of Higher Education may require the institution to refund all tuition and fees paid by students who enrolled in the program, and may revoke the authorization of any institution that fails to make a required refund within the time specified by the Director of the State Department of Higher Education.

- D. If an institution of postsecondary education does not file all essential records of the academic achievement of a former student with the State Department of Higher Education in accordance with state law, the Director of State Department of Higher Education may:
 - 1. Require the institution to refund all tuition and fees paid by the former student whose records were not filed in accordance with state law; or
 - 2. Seek an injunction in accordance with subsection (A) of this section.
- E. The remedies provided in this section are in addition to any other remedies provided by law.

VI. Disorderly Closure

- A. “Closing institution” means a private career school or an institution of postsecondary education that closes at least one program in a manner that is a disorderly closure.
- B. “Disorderly closure” means the cessation of educational instruction, as determined by the State Department of Higher Education, of a program in which:
 - 1. The institution did not provide a satisfactory amount of time, as determined by the Director of the State Department of Higher Education, for all students in the state to complete the program;
 - 2. The institution did not transition all students in the state into another program at the institution; or
 - 3. The institution did not enter into at least one school-to-school teach-out agreement.
- C. “Eligible transfer institution” means a private career school or an institution of postsecondary education that:



1. Has authorization to operate from the State Department of Higher Education; is registered with the State Department of Higher Education; or is exempt from registering with the State Department of Higher Education.
 2. Is in good standing with its accreditor and, if applicable, its licensing body;
 3. If applicable, has cohort loan default rates, as most recently reported by the U.S. Department of Education, that are less than or equal to the:
 - i. The cohort loan default rates of the closing institution; or
 - ii. The national average cohort loan default rates for all institutions;
 4. Is not currently under financial aid restrictions by the U.S. Department of Education; and
 5. Within the previous 5 years:
 - i. Has not entered into any settlement agreements related to a consumer protection law with a law enforcement agency; and
 - ii. Has not had any judgments related to a consumer protection law entered against it in favor of a law Enforcement agency.
- D. "Institutional debt" means:
1. the amount outstanding on any credit, including unpaid charges, extended by or on behalf of the institution that a student is obligated to repay, whether the amount has been reduced to judgment or the institution classifies it as a loan; or
 2. a nonfederal loan or debt agreement that is issued expressly for postsecondary education expenses and that is guaranteed by:
 - i. . A private career school;
 - ii. An institution of postsecondary education; or



- iii. A private educational lender that is affiliated with a private career school or an institution of postsecondary education.
- E. “Institutional financial aid agreement” means any contract, promissory note, part of an enrollment agreement, or other agreement in which a student agrees to pay an institutional debt.
- F. An institution that closes one or more programs in a manner that is a disorderly closure as defined in this Act is in violation of the enrollment agreement or other contract with a student enrolled at the time of the closure.
- G. A student of this state enrolled in an institution within 120 days before the date of the disorderly closure shall be entitled to reimbursement from the performance bond or irrevocable letter of credit of all non–Title IV tuition and fees paid to the institution.
- H. Reimbursement made under subsection (G) of this section shall be issued to all students in the state, including those who transfer to another institution.
- I. This section applies to a private career school or an institution of postsecondary education that:
 1. Operates in the state; or
 2. Enrolls at least 25 students in a fully online distance education program in the state and that has total tuition revenue from students in the state greater than \$100,000 in the immediately preceding academic year.
- J. Close-out agreements:
 1. In addition to any other requirement of this Act, an institution defined in (I) shall provide to the State Department of Higher Education a close–out agreement.
 2. A close–out agreement provided under this section shall be updated as required by the State Department of Higher Education.
 3. A close–out agreement under this subsection shall include any information required by the State Department of Higher Education



and shall state that:

- i. the institution will make all reasonable efforts to ensure that any closure of a program that enrolls students in this state is not a disorderly closure;
 - ii. Unless exempted by the commission, the chief executive officer and the members of the governing body of the institution were never in an executive position or a member of a governing body of an institution in which a disorderly closure occurred;
 - iii. If the institution is a for-profit institution of higher education, the chief executive officer and the members of the governing body agree to be jointly and severally personally liable for an amount determined by the State Department of Higher Education, based on the individual's good faith, advance knowledge of the disorderly closure, ability to prevent the closure, and severity of the closure, in an amount not to exceed which is the lesser of:
 - a. \$1,000 for each student in the state who was enrolled at the time of the disorderly closure; or
 - b. The cost, based on the institution's previous year's financial statements, of completing the term for each student in the state who was enrolled at the time of the disorderly closure.
- K. Any institutional financial aid agreement offered to a student shall contain language stating that, in the event of a disorderly closure, the institutional debt is void and may not be recovered, collected, or enforced.
- L. A school-to-school teach-out agreement shall:
1. Be arranged by the closing institution;
 2. Be between an eligible transfer institution, the closing institution, and the State Department of Higher Education; and
 3. Unless waived for good cause by the State Department of Higher



Education, specify that the eligible transfer institution:

- i. If the closing institution has a physical presence in the state, is located within a reasonable distance of the closing institution;
 - ii. Shall accept the transfer of all 75% of completed credits from students affected by the disorderly closure;
 - iii. Shall allow a student in the state affected by the disorderly closure to complete the student's program with substantially the same number of credit hours as was required by the institution operating the closing program; and
 - iv. May not charge a student in the state tuition or fees in excess of the lesser of:
 - a. The remaining amount that a student in the state affected by the disorderly closure would have paid to the closing institution to complete the program; or
 - b. The transfer institution's applicable tuition and fees; and
4. Specify that, on request by a student in the state affected by the disorderly closure, the closing institution shall provide a complete academic record and an official transcript to the student at no cost to the student or the state.
- M. It shall be an unfair, abusive, or deceptive trade practice for any institution, person, or entity to collect on an institutional debt owed by a student in the state if:
1. The institutional financial aid agreement does not contain the language required under subsection (VI)(K) of this Act; or
 2. The institutional debt is owed by a student in the state who attended a program in which a disorderly closure occurred.

VII. Record Retention Requirements

- A. Before any institution of postsecondary education operating in this state



- discontinues academic or administrative operation, the institution shall file with the State Department of Higher Education the original or legible copies of all essential records of the academic achievements of all former students of the institution.
- B. In the case of an institutional closure that results in a merger, the State Department of Higher Education may approve a plan to file the essential records of all former students of the institution with the successor institution.
 - C. The obligation of an institution under paragraph (A) of this subsection may not be discharged in bankruptcy.
 - D. The records shall present, as separate documents:
 - 1. The official academic transcript of each former student;
 - 2. Any other academic information usually required by institutions of postsecondary education when considering students for transfer or advanced study; and
 - 3. If requested by the State Department of Higher Education, the financial aid and financial account information of each former student.
 - E. The records shall be accompanied by an affidavit as to the accuracy and completeness of the records on behalf of the institution's:
 - 1. Board of Trustees
 - 2. Bursar
 - 3. Chief Administrative Officer
 - 4. Chief Executive Officer
 - 5. Chief Financial Officer; or
 - 6. Registrar
 - F. The State Department of Higher Education shall maintain a permanent file of all records filed with it under this section.
 - G. If a student who attended an institution that closed in accordance with this



title requests a copy of the student's official academic transcript from the State Department of Higher Education and the State Department of Higher Education determines that the requested transcript is missing, incomplete, or in a format inaccessible to the student, the State Department of Higher Education may issue a replacement transcript for the student based solely on the most recent information provided by the institution that the student attended.

- H. A replacement transcript issued in accordance with subsection (G) of this section shall:
 - 1. Be signed by a designee of the Director of the State Department of Higher Education;
 - 2. Contain an explanation of the closure of the institution; and
 - 3. Contain an explanation of the source of all Information contained in the replacement transcript.
- I. Except as provided in subsection (H) of this section, a replacement transcript issued in accordance with this section shall be accepted as an official transcript by:
 - 1. Any institution of postsecondary education operating in the state; and
 - 2. Any institution registered to provide a fully online distance education program in the state.
- J. For purposes of student transfer, an institution of postsecondary education or a fully online distance education program in the state may consider, instead of or in addition to a replacement transcript, an unofficial transcript or other transcript information provided by the student that the receiving institution or program deems relevant.
- K. The regulations adopted in accordance with this subsection shall include:
 - 1. A specification of the manner and format in which student records are to be filed with the State Department of Higher Education; and
 - 2. A description of the circumstances under which an institution of postsecondary education or a fully online distance education



program in the state may discontinue academic or administrative operation.

- VIII. A violation of this Act shall be considered a violation of the State Unfair and Deceptive Acts and Practices Act.
- IX. The State Department of Higher Education shall adopt regulations to carry out the provisions of this Act.
- X. If any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this act are declared severable.
- XI. This Act shall take effect January 1, 20XX.