

**SUBSTITUTE FOR
SENATE BILL NO. 221**

A bill to provide for the reciprocal exchange of distance education between this state and other states or a higher education compact; to prescribe the powers and duties of certain state agencies and officials; to provide for collection of fees; to designate the state agency for negotiating distance education agreements; to establish a complaint process for students enrolled in distance education programs at participating colleges and universities; to establish an authorization and approval process for out-of-state distance education providers and participating colleges and universities in this state; and to provide penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "higher education authorization and distance education reciprocal

1 exchange act".

2 Sec. 2. As used in this act:

3 (a) "Accredited" means approved by an accrediting body
4 recognized by the United States Department of Education.

5 (b) "Authorization" means either of the following:

6 (i) An authorization from the department under section 4(1) to
7 participate in a reciprocal agreement.

8 (ii) An authorization from the department under section 4(3) to
9 provide distance education to residents of this state issued to a
10 college or university that is located in another state and is not a
11 party to a reciprocal agreement.

12 (c) "College or university" means a degree or certificate
13 granting public or private college or university, junior college,
14 or community college.

15 (d) "Department" means the department of licensing and
16 regulatory affairs.

17 (e) "Distance education" means education that uses 1 or more
18 technologies to deliver instruction to students who are separated
19 from the instructor, and to support regular and substantive
20 interaction between the students and the instructor, either
21 synchronously or asynchronously. As used in this subdivision,
22 "technologies" may include any of the following:

23 (i) The Internet.

24 (ii) One-way and 2-way transmissions through open broadcast,
25 closed circuit, cable, microwave, broadband lines, fiber optics,
26 satellite, or wireless communications devices.

27 (iii) Audio conferencing.

1 (iv) Video cassettes, DVDs, and CD-ROMs, if the cassettes,
2 DVDs, or CD-ROMs are used in a course in conjunction with any of
3 the technologies described in subparagraph (i), (ii), or (iii).

4 (f) "Participating college" means a college or university that
5 is located in this state; elects to participate in a reciprocal
6 agreement under this act; and meets the requirements of section 4.

7 (g) "Reciprocal agreement" means an agreement between this
8 state and a higher education compact or 1 or more other states that
9 allows participating colleges to provide distance education to
10 residents of this state and other member states under this act.

11 Sec. 3. (1) The department may on behalf of this state enter
12 into reciprocal agreements with public educational agencies in
13 other states or a higher education compact.

14 (2) The department may promulgate rules it considers necessary
15 to implement, administer, and enforce this act. The department
16 shall promulgate these rules under the administrative procedures
17 act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

18 Sec. 4. (1) The department shall authorize a college or
19 university that is located in this state to participate in a
20 reciprocal agreement to which the department is a party if the
21 college or university meets all of the following:

22 (a) Enters into an agreement with the department to subject
23 itself to section 5 and the other requirements of this act.

24 (b) Is an accredited college or university.

25 (c) Submits an application for authorization to participate in
26 the reciprocal agreement, on a form and with accompanying
27 documentation as prescribed by the department, that provides the

1 name of the college or university, its business address in this
2 state, the name of an individual designated for contact, proof of
3 accreditation, proof of financial responsibility in the form of
4 proof of certification, under 34 CFR 668.13, of compliance with the
5 financial responsibility standards of 34 CFR, part 668, subpart L,
6 and any other relevant information requested by the department.

7 (d) Pays an application fee of \$2,000.00 and an initial
8 authorization fee of \$2,000.00.

9 (2) An authorization under subsection (1) to participate in a
10 reciprocal agreement expires on December 31. A participating
11 college may renew an authorization for 1 or more additional
12 calendar years by submitting an application for renewal on a form
13 prescribed by the department, and paying an annual renewal fee of
14 \$2,000.00, by December 1 of each year.

15 (3) A college or university that is located outside of this
16 state and is not a party to a reciprocal agreement to provide
17 distance education to residents of this state may elect to obtain
18 authorization from the department to provide that distance
19 education. The department shall provide that authorization if the
20 college or university meets all of the following:

21 (a) Enters into an agreement with the department to subject
22 itself to section 5 and the other requirements of this act.

23 (b) Submits an application for authorization to provide
24 distance education to residents of this state, on a form and with
25 accompanying documentation as prescribed by the department, that
26 provides the name of the college or university, its business
27 address, the name of an individual designated for contact, proof of

1 accreditation, proof of financial responsibility in the form of
2 proof of certification, under 34 CFR 668.13, of compliance with the
3 financial responsibility standards of 34 CFR, part 668, subpart L,
4 and any other relevant information requested by the department.

5 (c) Pays an application fee of \$5,000.00 and an initial
6 authorization fee of \$5,000.00.

7 (4) An authorization under subsection (3) to provide distance
8 education to residents of this state expires on December 31. A
9 college or university may renew an authorization obtained under
10 subsection (3) for 1 or more additional calendar years by
11 submitting an application for renewal on a form prescribed by the
12 department, and paying an annual renewal fee of \$5,000.00, by
13 December 1 of each year.

14 (5) Fees collected under this act shall be used solely for
15 administrative expenses incurred under this act and are not
16 refundable.

17 Sec. 5. (1) Each participating college and each out-of-state
18 college or university that holds an authorization from the
19 department under section 4(3) shall assure that each student
20 enrolled in a distance education program at that participating
21 college or out-of-state college or university receives the services
22 for which he or she has paid, or receives reasonable financial
23 compensation for those services he or she has not received if a
24 course in which he or she is enrolled is terminated before the
25 expected completion date of that course. This assurance shall be in
26 writing and may include tuition assurance funds, surety bonds,
27 teach-out provisions, or other practices considered sufficient to

1 protect consumers by the department. The department may promulgate
2 rules for the administration of this subsection, including the
3 development of forms it considers appropriate.

4 (2) Each participating college and each out-of-state college
5 or university that holds an authorization from the department under
6 section 4(3) shall provide for the protection of student records
7 for students enrolled in a distance education program at that
8 participating college or out-of-state college or university and
9 shall comply with any rules promulgated by the department
10 concerning the protection of those student records.

11 (3) Each participating college and each out-of-state college
12 or university that holds an authorization from the department under
13 section 4(3) shall adopt and publish a written policy that allows
14 students enrolled in a distance education program at that
15 participating college or out-of-state college or university to file
16 a complaint with the department for any violation of this act or
17 rules promulgated under this act. The department shall establish a
18 complaint process for those students.

19 (4) Each participating college and each out-of-state college
20 or university that holds an authorization from the department under
21 section 4(3) shall meet the standards of practice contained in the
22 interregional guidelines for the evaluation of distance education,
23 published by the Council of Regional Accrediting Commissions in
24 July of 2009, which are incorporated by reference.

25 Sec. 6. (1) After notice and opportunity for hearing under the
26 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
27 24.328, the department shall do 1 or more of the following if it

1 determines that a participating college that holds an authorization
2 from the department under section 4(1), or an out-of-state college
3 or university that holds an authorization from the department under
4 section 4(3), has violated this act, a rule promulgated under this
5 act, or an order issued under this act:

6 (a) Place a limitation on the authorization.

7 (b) Suspend the authorization.

8 (c) Deny an authorization or renewal of the authorization.

9 (d) Revoke the authorization.

10 (e) Assess an administrative fine under subsection (2).

11 (f) Order restitution to an aggrieved student who participated
12 or is participating in a distance education program.

13 (g) Impose any other sanction established by the department by
14 rule.

15 (2) The department may assess an administrative fine of not
16 more than \$1,000.00, plus the department's actual costs of the
17 investigation, for a violation of this act or rules promulgated
18 under this act. However, the department may not assess
19 administrative fines under this subsection against a college or
20 university that in the aggregate are more than \$5,000.00 for
21 multiple violations of this act or rules promulgated under this act
22 that arise from the same transaction.