

**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; to provide penalties; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the

1 "higher education authorization and distance education reciprocal
2 exchange act".

3 Sec. 2. As used in this act:

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

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

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

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

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

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

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

24 (i) The Internet.

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

1 (iii) Audio conferencing.

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

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

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

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

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

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

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

25 (b) Is an accredited college or university.

26 (c) Submits an application for authorization to participate in
27 the reciprocal agreement, on a form and with accompanying

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

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

10 (2) An authorization under subsection (1) to participate in a
11 reciprocal agreement expires on December 31. A participating
12 college may renew an authorization for 1 or more additional
13 calendar years by submitting an application for renewal on a form
14 prescribed by the department, and paying an annual renewal fee of
15 \$2,000.00, by December 1 of each year.

16 (3) A college or university that is located outside of this
17 state and is not a party to a reciprocal agreement to provide
18 distance education to residents of this state may elect to obtain
19 authorization from the department to provide that distance
20 education. The department shall provide that authorization 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) Submits an application for authorization to provide
25 distance education to residents of this state, on a form and with
26 accompanying documentation as prescribed by the department, that
27 provides the name of the college or university, its business

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

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

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

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

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

1 teach-out provisions, or other practices considered sufficient to
2 protect consumers by the department. The department may promulgate
3 rules for the administration of this subsection, including the
4 development of forms it considers appropriate.

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

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

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

26 Sec. 6. (1) After notice and opportunity for hearing under the
27 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to

1 24.328, the department shall do 1 or more of the following if it
2 determines that a participating college that holds an authorization
3 from the department under section 4(1), or an out-of-state college
4 or university that holds an authorization from the department under
5 section 4(3), has violated this act, a rule promulgated under this
6 act, or an order issued under this act:

7 (a) Place a limitation on the authorization.

8 (b) Suspend the authorization.

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

10 (d) Revoke the authorization.

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

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

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

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

24 Sec. 7. This act is repealed effective September 30, 2017.