

CHAPTER 53

AN ACT concerning eligibility for State student assistance or other employment and training services and supplementing chapter 71B of Title 18A of the New Jersey Statutes and P.L.1989, c.293.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.18A:71B-117 Findings, declarations relative to eligibility for certain programs.

1. The Legislature finds and declares that the State spends considerable funds on educational institutions, including proprietary schools, training providers, and other postsecondary schools. It is in the State's interests to ensure that State funds going to schools, training providers, or their students, are funding consistently high-quality educational experiences, but the State does not have the resources to monitor these programs daily. Instead, to ensure that limited State funds are expended on high-quality programs, the State depends on students' ability to effectively vindicate their rights under State and federal law in litigation against educational institutions that are or may receive funds. Lawsuits like these deter the misuse of State funds without the expenditure of State resources on enforcement, and public filings resulting from such litigation may be monitored by the State to assess whether it is spending its limited funds appropriately.

The Legislature further finds and declares that such educational institutions frequently require their students to sign enrollment contracts that include forced arbitration and other restrictive clauses, including clauses that require students to waive their right to participate in a class action against the company. These clauses impede students from being able to sue to enforce State and federal law against their educational institutions, and the few private and individual arbitrations that students are able to file against educational institutions are not publicly filed and available for monitoring by the State.

C.18A:71B-118 Eligibility contingent on actions of institution, school.

2. a. A student enrolled in a public or independent institution of higher education or a proprietary institution licensed to offer academic degrees shall be ineligible to receive any form of student assistance from the State, including grants, scholarships, and loans, in the event that the institution or school requires the student to:

(1) submit to an agreement to arbitrate or to an arbitration proceeding to resolve any matter thereafter relating to the student's enrollment prior to the commencement of any legal action;

(2) resolve a complaint relating to the student's enrollment through an internal dispute process;

(3) waive any right, forum, or procedure afforded to the student, including any right to file and pursue a civil action, class action or a complaint with, or otherwise notify, any State agency, other public prosecutor, law enforcement agency, or any court or other governmental entity of any alleged violation of the student's rights; or

(4) be prohibited from disclosing, discussing, describing, or commenting upon the terms of the student's enrollment agreement or any violation thereof.

Nothing in this subsection shall be construed to prohibit a student from receiving any form of student assistance from the State for which the student is eligible at a different institution of higher education or proprietary institution licensed to offer academic degrees.

b. A public or independent institution of higher education or a proprietary institution licensed to offer academic degrees shall not threaten, retaliate, or discriminate against any student because of the refusal by the student to: consent to an agreement to arbitrate or to an

arbitration proceeding; resolve a complaint through an internal dispute process; waive any right, forum, or procedure; or consent to a prohibition to disclose, discuss, describe or comment upon any enrollment agreement terms or violations thereof.

c. A public or independent institution of higher education or a proprietary institution licensed to offer academic degrees shall not require a student to opt out of a waiver or take any affirmative action in order to preserve his rights pursuant to this section.

d. In the event that a public or independent institution of higher education or a proprietary institution licensed to offer academic degrees requires a student to enter into an enrollment contract or similar agreement, the institution shall annually submit such contracts or agreements to the Secretary of Higher Education.

e. Nothing in this act shall be construed to invalidate a written arbitration agreement that is otherwise enforceable under the Federal Arbitration Act (9 U.S.C.s.1 et seq.).

C.34:15C-10.2a Eligibility contingent upon actions of training provider.

3. a. An individual receiving or seeking employment and training services from a training provider shall be ineligible to receive the services or any form of funding for the services, including grants, scholarships, loans, or other State job training funds or federal job training funds, if the training provider requires the individual to:

(1) submit to an agreement to arbitrate or to an arbitration proceeding, prior to the commencement of any legal action, to resolve any matter thereafter relating to the individual's receiving the services;

(2) resolve, through an internal dispute process, a complaint relating to the individual's receiving the services;

(3) waive any right, forum, or procedure afforded to the individual, including any right to file and pursue a civil action, class action or a complaint with, or otherwise notify, any State agency, other public prosecutor, law enforcement agency, or any court or other governmental entity of any alleged violation of the individual's rights; or

(4) be prohibited from disclosing, discussing, describing, or commenting upon the terms of the individual's receiving the services or any violation thereof.

Nothing in this subsection shall be construed to prohibit an individual from receiving employment and training services or any form of funding for the services for which the individual is eligible from a different training provider.

b. A training provider shall not threaten, retaliate, or discriminate against any individual because of the refusal by the individual to: consent to an agreement to arbitrate or to an arbitration proceeding; resolve a complaint through an internal dispute process; waive any right, forum, or procedure; or consent to a prohibition to disclose, discuss, describe or comment upon any enrollment agreement terms or violations thereof.

c. A training provider shall not require an individual to opt out of a waiver or take any affirmative action in order to preserve his rights pursuant to this section.

d. If a training provider requires an individual to take actions which make the individual ineligible to receive employment and training services pursuant to subsection a. of this section, or the training provider violates the provisions of subsection b. of this section, the training provider shall not be placed or retained on the State Eligible Training Provider List maintained pursuant to section 14 of P.L.2005, c.354 (C.34:15C-10.2), and shall not receive any federal job training funds or State job training funds.

e. In the event that a training provider requires an individual to enter into an enrollment contract or similar agreement, the provider shall annually submit such contracts or agreements to the Commissioner of Labor and Workforce Development.

f. Nothing in this act shall be construed to invalidate a written arbitration agreement that is otherwise enforceable under the Federal Arbitration Act (9 U.S.C.s.1 et seq.).

g. For the purposes of this section, “federal job training funds”, “State job training funds”, “training provider” shall have the meanings set forth in section 4 of P.L.1989, c.293 (C.34:15C-1), and “employment and training services” shall have the meanings set forth in section 1 of P.L.1992, c.48 (C.34:15B-35) and section 3 of P.L.1992, c.43 (C.34:15D-3).

4. This act shall take effect in the next full academic year beginning after the date of enactment.

Approved April 19, 2021.